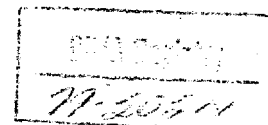


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OGC 79-05422

13 June 1979



MEMORANDUM FOR: Director of Central Intelligence  
Deputy Director of Central Intelligence  
Morning Meeting Participants

FROM: Daniel B. Silver  
General Counsel

SUBJECT: Charter Legislation -- Comparative Analysis  
of Administrative Positions and S. 2525  
Restrictive Provisions

You will recall that at the 4 June morning meeting I presented a short briefing concerning the current status of the intelligence charter legislation. I also promised at that time to furnish you with a comparison between the Administration's positions and the corresponding provisions of Title II of S. 2525 that would impose statutory restrictions on intelligence activities. Attached, for your information, is a copy of such a comparative analysis that we have prepared and that has been circulated to SCC members for comment by the NSC. I would be happy to discuss this summary and any further questions you may have regarding charter legislation.

Daniel B. Silver

STATINTL

Attachment

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ADMINISTRATION S. 2525

DIFFERENCES

COLLECTION OF FOREIGN INTELLIGENCE CONCERNING U.S. PERSONS

Electronic Surveillance and Physical Search in U.S.

FISA - Court order - U.S. person engaged in clandestine intelligence activities that involve violation of U.S. criminal law, or international terrorism, sabotage, (Sec. 225)

FISA - Court order, criminal standard - U.S. person engaged in clandestine intelligence activities that involve violation of U.S. criminal law, or international terrorism, sabotage, (Secs. 311, 341)

None, both use "criminal standard."

Electronic Surveillance and Physical Search Abroad

Court order - U.S. person in possession of information determined by SCC to be "essential" to U.S. national security or foreign relations. (Sec. 214)

Court order - U.S. person engaged in clandestine intelligence activities that would violate U.S. criminal law if in U.S., or in international terrorism, sabotage, acting as official for foreign power, or is fugitive from U.S. justice. (Secs. 321, 341)

Administration authority based on nature of information sought; S. 2525 relies on "criminal standard" and other specified circumstances.

Placing Employees in U.S. Organizations or Organizations Substantially Composed of U.S. Persons

Attorney General approval - to collect information determined by SCC to be "essential" to U.S. national security or foreign relations. In U.S. limited to FBI and military. (Sec. 215)

Entity head approval - U.S. person or group engaged in clandestine intelligence activities, and, in addition in U.S., that involve violation of U.S. criminal laws. Also may be approved if subject involved in international terrorism, sabotage, assassination, acting as official for foreign power, or is fugitive from U.S. justice. In U.S. only on behalf of FBI. (Secs. 214, 244)

Administration authority based on nature of information sought; S. 2525 relies on "criminal standard" in U.S. and other specified circumstances and allows activity by entities other than FBI in U.S. only if on FBI behalf. (Under Title IV CIA only authorized to collect foreign intelligence from foreign persons in U.S.)

Mail Covers, Physical Surveillance, Directing Human Sources

Entity head approval - to collect information determined by SCC to be "important" to U.S. national security or foreign relations. In U.S. limited to FBI and military. (Sec. 216)

Attorney General written finding - use of technique is necessary and reasonable in collection based on determination U.S. person engaged in clandestine intelligence activities, and, in addition in U.S., that involve or may involve violation of U.S. criminal laws. Also may be approved if subject involved in international terrorism, sabotage, assassination, acting as official for foreign power, or is fugitive from U.S. justice.

Administration authority based on nature of information sought, approval by entity head and limited to FBI in U.S.; S. 2525 relies on "criminal standard" in U.S. and other specified circumstances, requires AG approval, and not limited to FBI. (Under Title IV CIA only authorized to collect foreign intelligence from foreign persons in U.S.)

Collection by Other Means  
Third Party and Pretext  
Interviews, Incidental  
Collection, etc.

Allowed under General authority (with-  
out mention of specific techniques) to  
fulfill a law enforcement purpose.  
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governed by procedures approved by the  
Attorney General. (Sec. 213)

Designated official approval - U.S.  
person engaged in clandestine intel-  
ligence activities in addition  
in U.S., that involve or may involve  
a violation of U.S. criminal law. Also  
may be approved if subject involved in  
international terrorism, sabotage,  
assassination, acting as official for  
foreign power, or is fugitive from  
U.S. justice. (Sec. 214)

procedures; S. 2525 relies on  
"criminal standard" and other  
specified circumstances.

## II. COLLECTION OF COUNTER- INTELLIGENCE CONCERNING U.S. PERSONS

Electronic Surveillance and  
Physical Search in U.S.

FISA - Court order - U.S. person  
engaged in clandestine intelligence  
activities that involve violation of  
U.S. criminal law, or international  
terrorism, sabotage. (Sec. 225)

FISA - Court order - U.S. person,  
engaged in clandestine intelligence  
activities that involve violation of  
U.S. criminal law, or international  
terrorism, sabotage. (Secs. 311, 341)

None, both use "criminal  
standard."

Electronic Surveillance and  
Physical Search Abroad

Court order - U.S. person is or may  
be engaged in clandestine intel-  
ligence activities on behalf of a  
foreign power. (Sec. 219)

Court order - U.S. person engaged  
in clandestine intelligence activ-  
ities that would violate U.S.  
criminal law if in U.S. or in inter-  
national terrorism, sabotage, acting  
as official for foreign power, or is  
fugitive from U.S. justice. (Secs 321,  
341)

Administration authority based  
on clandestine intelligence  
activities; S. 2525 relies on  
"criminal standard" and other  
specified circumstances.

Placing Employees in  
U.S. Organizations

Senior official approval - facts and  
circumstances indicate U.S. person  
or group is or may be engaged in  
clandestine intelligence activities  
on behalf of a foreign power, and  
governed by procedures approved by  
the Attorney General limiting activity  
to that necessary to achieve significant  
and lawful objectives. (Sec. 220)

Entity head approval - U.S. person  
or group reasonably believed to be  
engaged in clandestine activities,  
and, in addition in U.S., that involve  
or may involve violation of U.S. cri-  
minal law. In U.S. only on behalf of  
FBI. Also may be approved if subject  
involved in international terrorism,  
sabotage, assassination, acting as  
official for foreign power. (Secs 213,  
244)

Administration requires senior  
official approval and necessity  
for lawful objectives; S. 2525  
relies on entity head approval  
and "criminal standard" in U.S.  
and other specified circum-  
stances and allows activity by  
entities other than FBI in U.S.  
only if on FBI behalf.

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Mail Covers,  
Physical Surveillance,  
Directing Human Sources

Governed by procedures approved by the Attorney General - senior official review required at least once a year to determine facts and circumstances indicate U.S. person is or may be engaged in clandestine intelligence activities on behalf of a foreign power. (Sec. 221)

Attorney General (or Service Secretary if military subject) written finding - use of technique is necessary and reasonable belief U.S. person engaged in clandestine intelligence activities or, in addition in U.S., that involve or may involve violation of U.S. criminal law. Also may be approved if subject involved in international terrorism, sabotage, assassination, acting as official for foreign power. (Secs. 213, 215)

Administration relies on AG procedures and senior official review; S. 2525 requires AG approval and "criminal standard" in U.S. and other specified circumstances.

Collection by Other Means  
(Third Party and Pretext  
Interviews, Incidental  
Collection, etc.)

Allowed under General Authority (without mention of specific techniques) if facts and circumstances indicate U.S. person is or may be engaged in clandestine intelligence activities on behalf of a foreign power. (Sec. 218)

Designated official approval - U.S. person reasonably believed to be engaged in clandestine intelligence activities, and, in addition in U.S., that involve a violation of U.S. criminal law. Also may be approved if subject involved in international terrorism, sabotage, assassination, acting as official for foreign power. (Sec. 213)

Administration allows collection if subject engaged in clandestine activity; S. 2525 requires official approval and "criminal standard" in U.S. and other specified circumstances.

III. COLLECTION OF INFORMATION  
CONCERNING U.S. PERSONS  
WHO ARE TARGETS OF  
INTELLIGENCE OR TERRORIST  
ACTIVITIES

No specific provision. Authority included in counterintelligence and potential source provisions and to be governed by procedures approved by Attorney General. (Secs. 218-21, 223)

Authorized up to 180 days if subject:  
- reasonably believed to be recruitment target of intelligence or international terrorist organization  
- engaged in activity or possesses information reasonably believed to be target of intelligence or terrorist activity, but only to extent necessary to protect against the activity.

Administration relies on procedures; S. 2525 explicitly limits duration and circumstances.

IV. COLLECTION OF INFORMATION  
CONCERNING U.S. PERSONS  
WHO ARE POTENTIAL SOURCES  
OF INFORMATION OR  
ASSISTANCE

Governed by procedures approved by Attorney General and limiting scope, intensity, duration, as required to determine suitability or credibility. No extraordinary techniques may be used. (Sec. 223)

Authorized if reasonable belief of use as potential source - limited to determining suitability or credibility, and up to 90 days. Consent required unless designated official finds serious intent to use and request for consent would jeopardize activity. Without consent limited to public information, record checks, pretext interviews. (Sec. 221)

Administration relies on procedures; S. 2525 more explicitly limits duration and techniques.

COLLECTION OF INFORMATION  
CONCERNING U.S. PERSONS  
FOR SECURITY PURPOSES

Governed by procedures approved by Attorney General and limiting collection by particular agencies as well as scope, intensity, duration, as required to determine suitability and trustworthiness of applicants for employment or access to protect against security breaches by present or former employees, to protect against direct or imminent threats to personnel, activities, information, property. No extraordinary techniques may be used. (Sec. 224)

COLLECTION OF INFORMATION  
CONCERNING FOREIGN  
PERSONS IN THE U.S.

No provisions except use of electronic surveillance and physical search limited by FISA to official of foreign power, or member of international terrorist group, or if involved in clandestine intelligence activity.

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Authorizes

- physical surveillance and record checks to limit access to facilities
- local physical surveillance, record checks and pretext interviews as necessary to determine whether physical threat to property or persons should be referred to law enforcement officials
- physical surveillance, record checks, mail covers and human sources for up to 180 days, with entity head approval and with extensions, to determine whether employee, contractor of contractor employee has violated security regulation. (Sec. 222)

Administration relies on procedures; S. 2525 more explicitly limits duration and techniques.

Same limitations as Administration under FISA on use of extraordinary techniques. Also authorized if

- officer or employee of foreign power
- circumstances indicate reasonably likely to engage in espionage, clandestine intelligence activity
- entity head determines "significant" foreign intelligence sought
- collection would be authorized if subject were U.S. person but without limitations on duration and techniques available.

Administration does not regulate non-intrusive collection; S. 2525 contains broad categories of authorized collection.

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SPECIAL ACTIVITIES

and Approval

Approved by President, after NSC review, if substantial resources or risks involved and "important" to national security. If no substantial resources or risks, may be approved by NSC committee if "will further" national security, but may require President's approval if committee member withholds approval (Secs. 231, 232)

All approved by President, after NSC review, based on specified factors and finding activity is "essential" to national defense or foreign policy, benefits outweigh risks, other means inadequate. Detailed annual review required. (Sec. 131)

Administration allows approval below Presidential level of routine activities and uses "important" and "will further" standards; S. 2525 requires all be approved by President as "essential," specific factors, annual NSC review.

Professional Notification

Notify only two intelligence committees on a timely basis. (Sec. 233)

Notify two intelligence committees prior to activity (Hughes-Ryan would continue to require timely notice to other "appropriate" committees). (Sec. 131)

Administration notice timely and only to two committees; S. 2525 notice prior to two committees and timely to others.

Excluded Types

Assassination. (Sec. 234)

Assassination, support of international terrorism, mass property destruction, food or water shortages, epidemics, use of chemical or biologic weapons, violent overthrow of democratic governments, support of human rights violations. Undisclosed support for distribution of books, etc., in U.S., or abroad where "likely result" would be "substantial redistribution" in U.S. Limits use of intelligence employees as combatants abroad. (Secs. 134, 135)

Administration bars only assassination; S. 2525 bars other specific types of special activities.

Entities Authorized to Conduct Special Activities

CIA, DoD during period of hostilities or when military activities involved, other entities under unusual circumstances if President determines necessary. (Sec. 231)

CIA, and during period of war declared by Congress, U.S. Armed Forces. (Sec. 131(j))

Administration allows greater flexibility; S. 2525 retains current limitations.

Repeal of Hughes-Ryan Amendment

Repeals Hughes-Ryan (Sec. 2422 of title 22, U.S.C.) (S. 2525)

Not mentioned.

Administration considers repeal as companion action to Sec. 233, requiring timely notification to SSC and HPSCI; S. 2525 adds requirements to Hughes-Ryan.

III. REVIEW AND APPROVAL OF SENSITIVE INTELLIGENCE COLLECTION PROJECTS

No provision.

NSC review and approval as specified by President. Presidential review and approval of projects of "exceptional importance or sensitivity" based on specified criteria and finding information sought is "essential" to national defense or foreign policy, benefit justifies risk, other means inadequate. Prior notice to intelligence committees of projects approved by President. Annual NSC review and Presidential reaffirmation required. (Sec. 131)

Administration leaves this area to Executive regulation; S. 2525 specifies standards and procedures.

IX. REVIEW AND APPROVAL OF COUNTERINTELLIGENCE ACTIVITIES

No provision.

NSC review and approval as specified by President. Presidential review and approval of projects of "exceptional importance or sensitivity," based on specified criteria. Prior notice to intelligence committees of activities approved by President. Annual NSC review and Presidential reaffirmation required. (Sec. 141)

Administration leaves this area to Executive regulation; S. 2525 specifies standards and procedures.

X. USE OF PERSONS AND ORGANIZATIONS

U.S. Clergy

No provision.

Bars paid use for operational purposes or collection. (Sec 132(a)(1)).

Administration leaves to Executive regulation; S. 2525 limits specifically.

U.S. Exchange Program Participants

No provision.

Bars paid use for operational purposes or intelligence collection of participants in U.S. sponsored cultural exchange programs. (Sec. 132(a)(2))

Administration leaves to Executive regulation; S. 2525 limits specifically.

U.S. Media Organization Employees

No provision.

Bars paid use for operational purposes or intelligence collection of accredited journalists, regular contributors, editors, or policy-level officials. (Sec. 132(a)(3))

Administration leaves to Executive regulation; S. 2525 limits specifically.

PRESIDENTIAL WAIVER  
OF RESTRICTIONS

President may waive any or all restrictions. Exercisable during any period:

- of war declared by Congress, or
- covered by a report to Congress under the War Powers Resolution, as necessary to carry out the activity that is the subject of the report.

Such waivers must be reported in timely manner to the intelligence committees along with related facts and circumstances. (Sec. 241)

President may waive only limitations on use of clergy and exchange program participants, use of certain organizations for cover, use of permanent resident aliens and academics abroad, and bars on support of international terrorism, mass property destruction, creation of food and water shortages, violent overthrow of democratic governments.

Administration allows all restrictions to be waived in war or armed conflict with timely notice to intelligence committees; S. 2525 specifies certain limitation waivable in war, armed conflict, or grave threat, with prior notice.

II. REMEDIES

Criminal Penalties

Criminal penalty for electronic surveillance and physical search (including mail opening) conducted in violation of the charter. (Sec. 261)

Criminal penalty for electronic surveillance, physical search (including mail opening) conducted in violation of the charter and unconsented human experimentation and assassination. (Secs. 331, 251, 252, 134)

Administration criminal penalties only for intrusive techniques; S. 2525 criminal penalties also for unconsented human experimentation and assassination.

Civil Remedies

Civil remedy available against individuals for electronic surveillance and physical search (including mail opening) conducted in violation of the charter.

Civil remedy available against the U.S. and officials for electronic surveillance, physical search (including mail opening), and human experimentation conducted in violation of the charter, and for any other intelligence activity engaged in for the purpose of interfering with legal or constitutional rights. Civil remedy available only against the U.S. for violations of the Charter that also violate a constitutional right. (Secs. 331, 253, 254)

Administration civil remedies against individuals only for intrusive techniques or intentional violations of constitutional rights; S. 2525 civil remedies against individuals also for human experimentation and other violations of legal or constitutional rights.

Who May Sue

Any person who is not an agent of a foreign power. (Sec. 261)

Any person. (Secs. 253, 254)

Administration limits class of plaintiffs; S. 2525 allows any person to sue.

Bar on Injunctions and  
on Claims Based on  
Procedures and Regulations

No injunction may be obtained and procedures and regulations to implement Title II cannot create enforceable substantive or procedural rights. (Sec. 264)

No provision.

Administration bars injunctions and suits based on implementing regulations; S. 2525 does not.

Suppression of Evidence

Information obtained in violation of the charter or implementing procedures may not be barred from use at trial. (Sec. 264)

No provision.

Administration provision does not allow suppression of evidence in most circumstances; S. 2525 does not bar suppression.

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TITLE II -- INTELLIGENCE ACTIVITIES  
AND CONSTITUTIONAL RIGHTS

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TITLE II -- INTELLIGENCE ACTIVITIES AND CONSTITUTIONAL RIGHTS

PART A

GENERAL PROVISIONS; RESPONSIBILITIES OF THE  
ATTORNEY GENERAL

SHORT TITLE

Sec. 201. This title may be cited as the "Intelligence  
Activities and Constitutional Rights Act of 1978".

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STATEMENT OF FINDINGS

Sec. 202. The Congress hereby finds that--

(1) properly limited and controlled intelligence activities conducted within the United States or directed against United States persons abroad are necessary to protect against espionage and other clandestine intelligence activities harmful to the security of the United States, to protect against sabotage, international terrorist activities, and assassinations, and to collect information concerning foreign powers, organizations, or persons which is essential to the formulation and conduct of the foreign policy and to the protection of the national security of the United States;

(2) illegal or improper intelligence activities have undermined due process of law, inhibited the exercise of freedom of speech, press, assembly, and association, invaded the privacy of individuals, and impaired the integrity of free institutions; and

(3) legislation is needed to allocate clearly the responsibility for directing and supervising all intelligence activities conducted within the United States or against United States persons abroad, to establish standards and procedures for the conduct of such activities, to prohibit certain activities, and to establish adequate legal safeguards to ensure adherence to such standards and procedures.

STATEMENT OF PURPOSES

Sec. 203. It is the purpose of this Act--

(1) to provide statutory authorization for intelligence activities which are directed against United States persons or performed within the United States and which are necessary for the formulation and conduct of the foreign affairs and the protection of the national security of the United States;

(2) to establish comprehensive statutory standards and procedures for the conduct of the intelligence activities of the United States in order to protect individuals against violations and infringements of their constitutional rights;

(3) to provide fair and effective remedies and sanctions whenever any person's rights under the Constitution or laws of the United States are infringed or violated by intelligence activities of the United States; and

(4) to delineate the role of the Attorney General in ensuring that intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States.

DEFINITIONS

Sec. 204. (a) Except as otherwise provided in this section, the definitions in title I of this Act shall apply to this title.

(b) As used in this title--

(1) The term "clandestine intelligence activity" means any intelligence activity on behalf of a foreign power which is planned and executed in a manner intended to conceal the nature or fact of such activity or the role of such foreign power, and any activity carried out in support of such activity.

(2) The term "confidential records" means any documentary information or material which is not generally available to a private person.

(3) The term "covert human source" means any person acting on behalf of any entity of the Intelligence Community who is directed to collect specific information or material for such entity in a manner intended to conceal the nature or the fact of such collection, including any person who voluntarily agrees to perform such activity without compensation.

(4) The term "electronic surveillance within the United States" shall have the same meaning as in title III of this Act.

(5) The term "foreign electronic or signals intelligence activities" shall have the same meaning as in title III of this Act.

(6) The term "foreign organization" means--

(A) any unincorporated association organized outside the United States and not substantially composed of United States citizens or aliens lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act); or

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(B) any corporation incorporated outside the United States.

(7) The term "foreign person" means any foreign power, any foreign organization, or any individual who is not a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

(8) The term "foreign power" means--

(A) any government of a foreign country, including any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and including any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated;

(B) any faction or body of insurgents within a country presuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(C) any foreign political party including any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof, but not including any United States organization; or

(D) any corporation incorporated in the United States which is directed and controlled by any government of a foreign country.



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(9) The term "mail cover" means any systematic and deliberate inspection of the exterior of mail to or from a particular person without such person's consent before such mail is delivered to the person to whom it is addressed.

(10) The term "national agency check" means a record check of the Federal Bureau of Investigation fingerprint and investigative files, the Civil Service Commission security/investigations index, the Department of Defense central investigative index, the central files of the Central Intelligence Agency, or the central files of the Department of State, and, when there is a reasonable likelihood that relevant biographic information will be found in such files, the central files of any other Federal agency.

(11) The term "physical surveillance" means (A) any systematic and deliberate observation of a person without that person's consent by any means on a continuing basis, or (B) unconsented acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance within the United States or foreign electronic or signals intelligence activities. This term does not include overhead reconnaissance not directed at specific United States persons.

(12) The term "United States", when used to describe a geographic location, means the several States, the Virgin Islands, the Commonwealth of Puerto Rico and the possessions and territories of the United States.

(13) The term "United States organization" means any unincorporated association or corporation which is a United States person.

## RESPONSIBILITIES OF THE ATTORNEY GENERAL

Sec. 205. (a) It shall be the duty of the Attorney General to participate, as appropriate, in the National Security Council, and with the Director of National Intelligence, the Intelligence Oversight Board, and the heads of the entities of the Intelligence Community, in ensuring that all intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States and do not abridge any right protected by the Constitution or laws of the United States. In discharging this duty the Attorney General shall--

(1) have responsibility for the approval of all regulations or procedures proposed by the Director of National Intelligence or by the head of any entity of the Intelligence Community to implement any provision of this title;

(2) evaluate on a continuing basis all statutes, executive orders, presidential directives and memoranda, and all regulations and procedures, relating to intelligence activities to determine whether they adequately protect the rights of United States persons under the Constitution and laws of the United States, and the legal rights of any other persons who are in the United States, and make such recommendations for changes therein as the Attorney General may deem necessary to achieve such purposes;

(3) supervise the intelligence activities of the Federal Bureau of Investigation authorized in title V of this Act;

(4) review or approve intelligence activities when required to do so by this Act;

(5) submit a written report annually to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on those intelligence activities which under this title require the approval or review of the Attorney General or his designee.

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(b) (1) To assist the Attorney General in the discharge of his responsibilities under this title, the Attorney General shall designate--

(A) an official or officials from among the Deputy Attorney General, the Associate Attorney General, and Assistant Attorneys General who shall perform any duty assigned to the Attorney General's designee under this Act; and

(B) an internal inspection officer who shall have, to the extent determined by the Attorney General, the same responsibility and authority with respect to the intelligence activities of the Department of Justice as the inspector general of each entity of the Intelligence Community has under section 151 of this Act with respect to the intelligence activities of that entity.

(2) The Attorney General, on or before the effective date of this Act, shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate which of the officials specified in paragraph (b) (1) (A) of this section shall perform the duties assigned to the Attorney General's designee under this Act. If any such duties are subsequently assigned or transferred to any person who on the effective date of this Act had already been appointed to such office by the President, by and with the advice and consent of the Senate, the Attorney General shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of such assignment or transferral. Any such duties shall be assigned or transferred to any person who on the effective date of this Act had not yet been appointed to such office only if the Attorney General designates such person to exercise such duties prior to such person's appointment to such office by the President, by and with the advice and consent of the Senate.

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PART B

AUTHORITY TO COLLECT INFORMATION CONCERNING UNITED STATES  
PERSONS, AND FOREIGN PERSONS WITHIN THE UNITED STATES

SUBPART 1

PRINCIPLES AND PROCEDURES GOVERNING COLLECTION OF  
INFORMATION CONCERNING UNITED STATES PERSONS,  
AND FOREIGN PERSONS WITHIN THE UNITED STATES

GENERAL PRINCIPLES

Sec. 211. (a) No information concerning any United States person, or any foreign person within the United States, may be collected for any foreign intelligence, counterintelligence, or counterterrorism purpose except in accordance with this part.

(b) Information concerning any United States person, or any foreign person within the United States, may be collected by any entity of the Intelligence Community with the consent of that person. The consent of any such person shall be requested whenever making such a request would not frustrate the lawful purposes of the collection.

(c) Publicly available information concerning any United States person, or any foreign person within the United States, may be collected by any entity of the Intelligence Community when such information is relevant to an authorized function of that entity.

(d) All collection of information concerning United States persons, or foreign persons within the United States, shall be conducted by the least intrusive means possible. Whenever the information sought can reasonably be obtained from publicly available information, it shall be so obtained. Whenever there is a choice between two or more techniques of collection, each of which can reasonably be expected to obtain the information sought, the technique which is least intrusive shall be used.

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IMPLEMENTING PROCEDURES AND REGULATIONS

Sec. 212. The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, promulgate procedures and regulations--

(1) designating those officials of that entity who are empowered to--

(A) authorize the initiation, renewal, or extension of collection of information under this part; and

(B) authorize the use of particular techniques of collection;

(2) ensuring that the least intrusive techniques necessary to collect information concerning United States persons, or foreign persons within the United States, are used;

(3) providing guidance with respect to the circumstances in which the initiation or continuation of collection of information under the authority of this part would be justified and in which the use of a particular technique would be appropriate;

(4) prescribing requirements for the maintenance of written records, in accordance with section 152 of this Act, on the use of particular techniques; and

(5) prescribing any other requirements necessary to protect constitutional rights and to limit the use of information collected under this part to lawful governmental purposes.

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SUBPART 2

AUTHORITY TO COLLECT INTELLIGENCE  
CONCERNING UNITED STATES PERSONS

AUTHORITY TO COLLECT COUNTERINTELLIGENCE AND  
COUNTERTERRORISM INTELLIGENCE CONCERNING UNITED STATES PERSONS

Sec. 213. Counterintelligence or counterterrorism  
intelligence may be collected concerning any United States person  
who--

(1) is reasonably believed to be engaged in  
espionage or any other clandestine intelligence activity  
which involves or may involve a violation of the criminal  
laws of the United States, sabotage, any international  
terrorist activity, or any assassination, to be aiding and  
abetting any person in the conduct of any such activity, or  
to be conspiring with any person engaged in any such  
activity;

(2) is reasonably believed to be engaged in any  
clandestine intelligence activity outside the United States;  
or

(3) resides outside the United States and is acting  
in an official capacity for any foreign power or  
organization which is reasonably believed to be engaged in  
espionage or any other clandestine intelligence activity,  
sabotage, any international terrorist activity, or any  
assassination.

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AUTHORITY TO COLLECT FOREIGN INTELLIGENCE  
CONCERNING UNITED STATES PERSONS

Sec. 214. Foreign intelligence may be collected concerning any United States person when a properly designated official of an entity of the Intelligence Community determines that the foreign intelligence would be significant foreign intelligence, and when such person--

(1) is reasonably believed to be engaged in espionage or any other clandestine intelligence activity which involves or may involve a violation of the criminal laws of the United States, sabotage, any international terrorist activity, or any assassination, to be aiding and abetting any person in the conduct of any such activity, or to be conspiring with any person engaged in any such activity;

(2) is reasonably believed to be engaged in any clandestine intelligence activity outside the United States;

(3) resides outside the United States and is acting in an official capacity for a foreign power and the information sought concerns such person's official duties or activities; or

(4) is a fugitive from United States justice abroad, reasonably believed to have relationships with foreign governments or organizations which would constitute significant foreign intelligence.

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ATTORNEY GENERAL APPROVAL OF COLLECTION  
UTILIZING CERTAIN TECHNIQUES

Sec. 215. The following techniques may be used to collect intelligence concerning a United States person under this subpart, but only under exigent circumstances or when the Attorney General or his designee, or, in the case of counterintelligence or counterterrorism collection concerning a member of the armed forces, the appropriate service Secretary, has made a written finding that in the collection of information concerning such person the use of such techniques is necessary and reasonable:

- (1) examination of the confidential tax records of any federal, state, or local agency in accordance with any applicable law;
- (2) physical surveillance for purposes other than identification;
- (3) the direction of covert human sources to collect information;
- (4) mail covers in accordance with applicable law of the United States;
- (5) requests for information, for purposes other than identification, pertaining to employment, education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal, state, or local agency; and
- (6) electronic surveillance within the United States, foreign electronic or signals intelligence activities, physical search, or mail opening in accordance with title III of this Act.



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DURATION OF COLLECTION

Sec. 216. (a) Intelligence collection under the authority of this subpart may be initiated only upon the written approval of a properly designated official of an entity of the Intelligence Community. Such approval shall be valid for not more than 90 days, renewable in writing for one additional 90-day period.

(b) Intelligence collection under the authority of this subpart may continue beyond the 180 days authorized in subsection (a) only if a properly designated official of the entity of the Intelligence Community conducting such collection makes a written finding that continuation of collection is necessary and reasonable.

(c) The Attorney General or his designee, or, when the subject of the collection is a member of the armed forces, the appropriate service Secretary, shall review annually each collection under this subpart which has continued for more than 180 days. Any such collection shall terminate after such annual review unless the Attorney General or his designee, or, if appropriate, the service Secretary, makes a written finding that the continuation of collection is necessary and reasonable.

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WRITTEN FINDINGS

Sec. 217. Written findings under sections 215 or 216 shall be based on the following considerations--

- (1) the degree to which continuation of collection or the use of particular techniques of collection would infringe the rights of the subject of the collection;
- (2) the importance of the information sought;
- (3) the credibility and specificity of information already obtained indicating that the subject of the collection continues to satisfy the standards for collection under this subpart; and
- (4) when the collection is for a counterintelligence or counterterrorism purpose, the likelihood, immediacy, and magnitude of any harm threatened by such activity.

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SUBPART 3

AUTHORITY TO COLLECT OTHER INFORMATION  
CONCERNING UNITED STATES PERSONS

AUTHORITY TO COLLECT INFORMATION CONCERNING  
TARGETS OF FOREIGN INTELLIGENCE SERVICES  
OR INTERNATIONAL TERRORISTS

Sec. 218. (a) Information may be collected for up to 180 days by any entity of the Intelligence Community concerning any United States person--

(1) who is reasonably believed to be the object of a recruitment effort by the intelligence service of a foreign power or by any person or organization engaging in any international terrorist activity; or

(2) who is engaged in activity or possesses information or material which is reasonably believed to be the specific target of any international terrorist activity or the target of any clandestine intelligence collection activity, or who is reasonably believed to be the target of any assassination attempt by any foreign person or by international terrorists, but only to the extent necessary to protect against such terrorist or intelligence activity or assassination attempt.

(b) Any person who is the subject of collection of information under this section shall be advised of any risks to that person posed by the intelligence activities of a foreign power or by international terrorist activities, and such person's consent for collection shall be requested, unless a properly designated official determines that--

(1) informing the person would jeopardize intelligence sources and methods; or

(2) there is reasonable uncertainty as to whether such person may be cooperating with the foreign intelligence service or international terrorists.

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AUTHORITY TO COLLECT FOREIGN INTELLIGENCE  
IN THE POSSESSION OF UNITED STATES PERSONS

Sec. 219. Foreign intelligence in the possession of a United States person may be collected by any entity of the Intelligence Community without the consent of such person if--

- (1) a properly designated official of the collecting entity determines that such intelligence is significant foreign intelligence, not otherwise obtainable;
- (2) collection of information concerning the United States person is limited to information essential to understanding or assessing the foreign intelligence; and
- (3) collection is limited to interviewing any other person to whom such United States person may have voluntarily disclosed such foreign intelligence.

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AUTHORITY TO COLLECT INFORMATION CONCERNING  
PERSONS IN CONTACT WITH SUSPECTED  
INTELLIGENCE AGENTS

Sec. 220. Information may be collected for not to exceed 90 days by any entity of the Intelligence Community concerning any United States person who has contact with any person who is reasonably believed to be engaged in espionage or any other clandestine intelligence collection activity, but such information may be collected only to the extent necessary to identify such United States person and to determine whether such person currently has, has had, or will have access to any information, disclosure of which to a foreign power would be harmful to the United States.

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AUTHORITY TO COLLECT INFORMATION CONCERNING  
PERSONS IN CONTACT WITH SUSPECTED  
INTELLIGENCE AGENTS

Sec. 220. Information may be collected for not to exceed 90 days by any entity of the Intelligence Community concerning any United States person who has contact with any person who is reasonably believed to be engaged in espionage or any other clandestine intelligence collection activity, but such information may be collected only to the extent necessary to identify such United States person and to determine whether such person currently has, has had, or will have access to any information, disclosure of which to a foreign power would be harmful to the United States.

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AUTHORITY TO COLLECT INFORMATION  
CONCERNING POTENTIAL SOURCES OF ASSISTANCE

Sec. 221. Information may be collected for up to 90 days by any entity of the Intelligence Community concerning any United States person who is reasonably believed to be a potential source of information or operational assistance, but only to the extent necessary to determine such person's suitability or credibility as such a source. Collection without the person's consent shall be limited to publicly available information, national agency checks, and interviews. The consent of any such person shall be requested unless a properly designated official of the collecting entity makes a written finding that:

- (1) there is a serious intention to use such person as a source of information or assistance, and
- (2) such a request would jeopardize the activity for which information or assistance is sought.

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AUTHORITY TO COLLECT INFORMATION FOR THE  
PROTECTION OF THE SECURITY OF INSTALLATIONS,  
PERSONNEL, COMMUNICATIONS, AND SOURCES AND METHODS

Sec. 222. (a) Each entity of the Intelligence Community, in order to determine whether any United States person within, on the grounds of, or in the immediate vicinity of any installation of that entity should, in accordance with any rule or regulation applicable to that installation, be excluded from that installation or from the immediate vicinity of that installation, may conduct physical surveillance of any such person, may request information concerning such person from the records of any federal, state, or local law enforcement agency, and may conduct a national agency check on such person.

(b) Each entity of the Intelligence Community may collect information concerning any United States person who is reasonably believed to be engaging in any activity which poses a clear threat to the physical safety of any installation or of any personnel of that entity, but the collection of such information within the United States shall be limited to such information as is necessary to determine whether the matter should be referred to an appropriate law enforcement agency, at which point the collection of such information shall be terminated. In no case shall the collection of such information within the United States go beyond--

(1) physical surveillance within, on the grounds of, or in the immediate vicinity of any installation of such entity;

(2) national agency checks;

(3) requests for information from the records of any federal, state, or local law enforcement agency; and

(4) interviews.

(c) Each entity of the Intelligence Community may collect information concerning any employee or contractor of that entity or any employee of a contractor of that entity to determine whether such entity employee or contractor or contractor employee has violated any rule or regulation of that entity pertaining to the security of that entity's installations, personnel,



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communications, sources or methods. Such collection may continue beyond 180 days only with the written approval of the head of the entity. The head of each entity may approve in writing the use of the following techniques of collection with respect to any such employee--

- (1) examination of the confidential records of any federal, state or local tax agency in accordance with applicable law;
- (2) physical surveillance for purposes other than identification;
- (3) the direction of covert human sources to collect information;
- (4) mail covers in accordance with applicable law of the United States; and
- (5) requests for information, for purposes other than identification, pertaining to employment, education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal, state or local agency.

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SUBPART 4

AUTHORITY TO COLLECT INFORMATION CONCERNING  
FOREIGN PERSONS WITHIN THE UNITED STATES

Sec. 225. Information concerning any foreign person within the United States may be collected for foreign intelligence, counterintelligence, or counterterrorism intelligence purposes if--

- (1) such person is an officer or employee of any foreign power or organization;
- (2) the circumstances of such person's presence in the United States make it reasonably likely that such person may engage in espionage or any other clandestine intelligence activity;
- (3) information concerning such person is determined by the head of the collecting entity of the Intelligence Community to be significant foreign intelligence; or
- (4) the collection of information concerning such person would be permitted under this part if such person were a United States person, but any limitation under this part on duration or techniques of collection that would be applicable to collection concerning a United States person shall not apply to collection under this section.

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PART C

RETENTION AND DISSEMINATION OF  
INFORMATION CONCERNING UNITED STATES PERSONS

RETENTION

Sec. 231. (a) Information concerning any United States person which is collected in the course of collection of information for any foreign intelligence, counterintelligence, or counterterrorism purpose, which is not publicly available, and which permits the identification of such person (hereinafter in this part referred to as "private information"), may be retained in the records or files of any department or agency without such person's consent only if--

(1) collection of information concerning such person has been approved in accordance with the provisions of this title and such information is relevant to the approved purposes of collection;

(2) it is reasonably believed that such information may provide a basis for initiating intentional collection of information pursuant to the provisions of this title;

(3) such information concerns a possible threat to the physical safety of any person;

(4) it is reasonably believed that such information may be evidence of a crime;

(5) such information was collected in the course of authorized foreign intelligence, counterintelligence, or counterterrorism intelligence collection and is essential for understanding or assessing such intelligence;

(6) such information constitutes foreign intelligence, counterintelligence, or counterterrorism intelligence and the United States person concerned is the incumbent of any office of the United States Government having significant responsibility for the conduct of United States defense or foreign policy; or

(7) such information was acquired by overhead reconnaissance not directed at any specific United States person.

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(b) Publicly available information concerning any United States person may be retained in the records or files of any entity of the Intelligence Community when relevant to a lawful function of that entity.

(c) Notwithstanding any other provision of this part, information collected by means of electronic surveillance within the United States or foreign electronic or signals intelligence activities shall be retained or disseminated only in accordance with the provisions of title III of this Act.

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## DISSEMINATION

Sec. 232. (a) Private information may be disseminated without the consent of the person which such information identifies only in accordance with this section.

(b) Private information may be disseminated within the entity of the Intelligence Community collecting such information (hereinafter in this part referred to as the "collecting agency") or within any department or agency subsequently receiving such information only to those persons who require such information for the discharge of authorized governmental responsibilities.

(c) Private information which constitutes foreign intelligence may be disseminated outside the collecting agency if the dissemination is to another department or agency having lawful access to foreign intelligence information and the identity of the United States person is essential to an understanding or assessment of the information's importance.

(d) Private information which constitutes counterintelligence or counterterrorism intelligence may be disseminated outside the collecting agency if--

(1) the dissemination is to another entity of the Intelligence Community having lawful counterintelligence or counterterrorism responsibilities, as the case may be, and having a direct interest in the particular information; or

(2) the dissemination is to a foreign government, if the information indicates that the United States person concerned may be engaged in international terrorist activities or in clandestine intelligence activities of direct interest to that foreign government, and if such dissemination is clearly in the interests of the United States.

(e) Private information which relates to any criminal activity may be disseminated outside the collecting agency if the United States person concerned is apparently involved in such criminal activity or is or may become the victim of that activity, and if--

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(1) dissemination is to any federal, state, or local law enforcement agency having investigative jurisdiction over such criminal activity or responsibility for protecting against such criminal activity; or

(2) dissemination is to a foreign law enforcement agency having investigative jurisdiction over such criminal activity, and such dissemination is determined by the Attorney General or his designee, having due regard to the seriousness of the activity and any legal obligation imposed on the United States by any treaty or other international agreement, to be in the interests of the United States.

(f) Private information relating to the trustworthiness of any United States person who currently has, has had, or is being considered for access to classified information may be disseminated to the department or agency which employs, employed, or intends to employ that person, the department or agency which granted that person a security clearance or access to classified information, or to any department or agency having responsibility to investigate that person's trustworthiness.

(g) Private information relating to the suitability of any United States person as a source of information or assistance for any lawful intelligence purpose may be disseminated to any entity of the Intelligence Community requesting such information, if the request certifies that there is a serious intention to use such person as such a source of information or assistance.

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RETENTION AND DISSEMINATION  
FOR OVERSIGHT PURPOSES

Sec. 233. (a) In the event that private information is collected by a means or in a manner prohibited by this Act, such information may be retained or disseminated only for purposes of oversight, accountability, and redress. Such information, when relevant to any administrative, civil, or criminal proceeding, shall not be destroyed or otherwise disposed of if the collecting agency is on notice of such a proceeding.

(b) This part shall not be construed to limit or otherwise affect in any manner any right of the Congress or any committee, subcommittee, or member thereof to have access to any information.

(c) This part shall not be construed to prevent the retention or dissemination of information about any United States person in a manner which would clearly not permit the identification of the United States person concerned.

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PART D

RESTRICTIONS AND LIMITATIONS

PROHIBITION OF POLITICAL SURVEILLANCE

Sec. 241. No intelligence activity may be directed against any United States person solely on the basis of such person's exercise of any right protected by the Constitution or laws of the United States, and no intelligence activity may be designed and conducted so as to limit, disrupt, or interfere with the exercise of any such right by any United States person.



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PROHIBITED DISSEMINATION

Sec. 242. No person acting on behalf of any entity of the Intelligence Community may disseminate anonymously or under a false identity information concerning any United States person without such person's consent unless such dissemination poses no risk to the physical safety of such person, is not for the purpose of discrediting such person because of such person's exercise of rights protected by the Constitution and laws of the United States, and is made--

(1) to a foreign intelligence service when necessary to protect against espionage or any other clandestine intelligence activity;

(2) to persons engaged in sabotage, international terrorist activities, or assassination, when necessary to protect against any such activity; or

(3) to any person when necessary to the maintenance of properly authorized cover for an officer, employee, or person acting for or on behalf of an entity of the Intelligence Community.

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PARTICIPATION IN ILLEGAL ACTIVITY

Sec. 243. No person acting on behalf of an entity of the Intelligence Community may instigate or commit any violation of the criminal statutes of the United States unless such activity is undertaken pursuant to procedures approved by the Attorney General and--

- (1) does not involve acts of violence;
- (2) does not involve a violation of any other provision of this Act; and
- (3) is necessary to protect against acts of espionage, sabotage, international terrorist activity, or assassination.

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RESTRICTIONS ON UNDISCLOSED PARTICIPATION  
IN UNITED STATES ORGANIZATIONS

Sec. 244. (a) No person may, except in accordance with this section, join or otherwise participate in any United States organization, or any other organization within the United States, on behalf of an entity of the Intelligence Community without disclosing such person's intelligence affiliation to appropriate officials of that organization. :

(b) The head of an entity of the Intelligence Community or his designee may, when essential for intelligence activities authorized by this Act, authorize undisclosed participation on behalf of that entity, without disclosing affiliation with that entity, in an organization within the United States which is composed primarily of foreign persons and is acting on behalf of a foreign power.

(c) The head of an entity of the Intelligence Community or his designee may authorize undisclosed participation in a United States organization without disclosing affiliation with that entity when necessary to collect information concerning the organization or its members under part B of this Act. Such participation shall be confined to the collection of information as authorized by that part, and shall be conducted so as not to influence the lawful activities of the organization or its members. Within the United States such participation may be undertaken to collect nonpublicly available information only on behalf of the Federal Bureau of Investigation.

(d) The head of an entity of the Intelligence Community or his designee may authorize undisclosed participation in a United States organization without disclosing affiliation with that entity when such participation is essential for preparing the participant for assignment to an intelligence activity outside the United States. Such participation shall be conducted so as not to influence the lawful activities of the organization or its members.

RESTRICTIONS ON THE PROVISION OF  
ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

Sec. 245. (a) Except as otherwise provided in this Act, no entity of the Intelligence Community other than the entities of the Departments of Justice and Treasury having law enforcement responsibilities may provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to state or local police organizations of the United States, or participate in or fund any law enforcement activity within the United States.

(b) Any entity of the Intelligence Community may--

(1) cooperate with appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of such entity and conducting background checks on applicants for employment;

(2) participate in law enforcement activities, in accordance with this Act, to protect against espionage or any other unlawful clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination; or

(3) with the prior approval of a designated official of such entity, provide specialized equipment, technical knowledge, or, pursuant to procedures approved by the Attorney General, the assistance of expert personnel for use by any federal law enforcement agency or, when lives are endangered, to support local law enforcement agencies.

(c) The Attorney General or the Attorney General's designee shall be notified in a timely manner of such provision of equipment, knowledge, or personnel, and shall review at least annually all provision of expert personnel to determine whether the procedures approved by the Attorney General have been followed.

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RESTRICTIONS ON THE USE OF HUMAN  
SUBJECTS FOR EXPERIMENTATION

Sec. 246. No entity of the Intelligence Community shall sponsor, contract for, or conduct research on any human subject except in accordance with guidelines on research involving human subjects issued by the Secretary of Health, Education, and Welfare. The requirements for informed consent and the documentation relating to such consent shall be the same as provided in such guidelines of the Secretary of Health, Education, and Welfare. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research shall have jurisdiction to monitor, under appropriate security arrangements, compliance with such guidelines by the various entities of the Intelligence Community which conduct research on any human subject; and such commission shall advise the Director of National Intelligence and the Secretary of Health, Education, and Welfare on any changes in such guidelines as may be necessary to protect fully the health and safety of such human subjects.

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PART F

REMEDIES

SUBPART 1

CRIMINAL SANCTIONS

ILLEGAL PHYSICAL SEARCHES

Sec. 251. (a) Section 2234 of title 18, United States Code, is amended by inserting "or other appropriate court order," immediately after "search warrant".

(b) Section 2235 of title 18, United States Code, is amended by inserting "(a)" before "Whoever" at the beginning of such section and adding a new subsection as follows:

"(b) Whoever maliciously and without complying with the provisions of the Foreign Intelligence Surveillance Act of 1978 procures a court order under that Act for an unconsented physical search, shall be fined not more than \$1,000 or imprisoned not more than one year."

(c) The first paragraph of section 2236 of title 18, United States Code, is amended by--

(1) inserting "or engaged in any intelligence activity (as defined in the National Intelligence Act of 1978)", immediately after "any law of the United States".

(2) inserting "or other appropriate court order" immediately after "property without a search warrant".

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UNCONSENTED HUMAN EXPERIMENTATION

Sec. 252. (a) Part I of title 18, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 123 -- Unconsented Human  
Experimentation

"Sec.  
"2551. Prohibition against unconsented human  
experimentation.

"Section 2551. Prohibition against unconsented human  
experimentation

"Any officer, employee, or agent of the United States who knowingly engages in or authorizes the use of a human subject for experimentation in a manner which results in injury to or seriously jeopardizes the health or safety of such subject without such subject's informed consent shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both."

(b) The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end thereof the following:

"123. Unconsented human experimentation."

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SUBPART 2

CIVIL DAMAGES

JOINT AND SEVERAL PERSONAL AND GOVERNMENTAL LIABILITY

Sec. 253. (a) Any person shall have a civil cause of action against any employee or agent of any entity of the Intelligence Community, and against the United States, jointly and severally, if such person is aggrieved as the direct result of any act or omission committed by such employee or agent, under color of law, in which such employee or agent--

(1) authorizes or engages in any of the following activities without a court order where a court order is required by law or the Constitution:

(A) electronic surveillance within the United States;

(B) foreign electronic or signals intelligence activity;

(C) physical search; or

(D) mail opening;

(2) authorizes or engages in any intelligence activity and such activity was engaged in for the purpose of limiting, disrupting, or interfering with the exercise of any right of such person protected by the Constitution or laws of the United States; or

(3) sponsors, contracts, or conducts research on such person except in accordance with this title.

(b) Except as provided in subsections (c) and (d), civil damages shall be assessed against any employee or agent found liable under subsection (a) and against the United States, jointly and severally, as follows:

(1) actual and general damages, but in no event less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

(2) punitive damages; and

(3) reasonable attorney's fees and court costs.



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(c) The provisions of this section shall not apply to any cause of action arising from the interception or disclosure of a wire or oral communication in violation of chapter 119, chapter 120, or chapter 121 of title 18, United States Code.

(d) (1) Proof that any act or omission committed by any employee or agent of any entity of the Intelligence Community giving rise to any civil action under this subpart was committed in good faith by such employee or agent shall constitute a complete defense to such action.

(2) A good faith reliance by an employee or agent of any entity of the Intelligence Community on--

(A) a written order or directive issued by an officer or employee of the United States having apparent authority to authorize the action in question; or

(B) a written assurance by any person employed as a legal counsel or legal advisor in any entity of the Intelligence Community stating that the action in question is legal,

shall constitute conclusive proof of good faith under paragraph (1) on the part of such employee or agent.

(3) Notwithstanding the existence of a good faith defense under paragraph (1), the United States shall, if such employee or agent was acting under color of law, be liable for any damages actually sustained by any person who has a cause of action under this section.

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SOLE GOVERNMENTAL LIABILITY

Sec. 254. Any person shall have a civil cause of action against the United States if such person is aggrieved as a direct result of any act or omission by any employee or agent of any entity of the Intelligence Community that--

- (1) violates any provision of this Act;
- (2) is committed under color of law; and
- (3) violates any right of the aggrieved person protected by the Constitution.

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#### JURISDICTION

Sec. 255. The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Claims, for all civil actions for money damages brought under section 253 or 254.

STATUTE OF LIMITATIONS

Sec. 256. No civil action may be brought under section 253 or 254 unless filed within two years after the date on which the aggrieved person discovered or reasonably should have discovered the facts giving rise to a cause of action under such section.

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EXCLUSIVE REMEDY

Sec. 257. The remedies provided under sections 253 and 254 shall be the exclusive remedies for money damages under the laws of the United States, but shall not exclude any other remedy or relief (except for money damages) under law.

DEFENDANT'S FEES AND COSTS

Sec. 258. (a) The Attorney General, upon recommendation of the head of the appropriate entity of the Intelligence Community, may pay reasonable attorney's fees and other litigation costs reasonably incurred by any employee or agent of such entity against whom a civil action is brought under section 253.

(b) The court may award any employee or agent of the United States not found liable under section 253 reasonable attorney's fees and other litigation costs reasonably incurred if such costs are not paid under subsection (a). Fees and costs so awarded shall be paid by the United States.

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## ADMINISTRATIVE ADJUSTMENT OF CLAIMS

Sec. 259. (a) The first paragraph of section 2672 of title 28, United States Code, is amended by striking out the colon before the proviso and inserting in lieu thereof a comma and the following: "or any claim for money damages against the United States for any injury or loss arising under any provision of the Intelligence Activities and Constitutional Rights Act of 1978 committed by any employee or agent of any entity of the Intelligence Community (as defined in the National Intelligence Act of 1978), but the amount of damages may not exceed an amount that could be awarded under section 253 or 254 of the Intelligence Activities and Constitutional Rights Act of 1978, as determined by the head of the entity concerned with the approval of an official of the Department of Justice designated by the Attorney General:".

(b) The first sentence of section 2675(a) of title 28, United States Code, is amended by striking out the comma after "employment" and inserting in lieu thereof "or upon a claim against the United States for money damages arising out of any provision of the Intelligence Activities and Constitutional Rights Act of 1978 committed by any employee or agent of any entity of the Intelligence Community (as defined in the National Intelligence Act of 1978),".

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SUBPART 3

ADMINISTRATIVE SANCTIONS

DISCIPLINARY ACTION

Sec. 260. (a) The head of each entity of the Intelligence Community shall be empowered to take disciplinary action against any officer or employee of that entity for any action or omission that violates the provisions of this Act or any regulation issued thereunder. Notwithstanding any other provision of law, such action may include--

- (1) suspension from employment without pay for a period not to exceed 180 days;
- (2) reduction of salary or grade or both;
- (3) dismissal from employment; or
- (4) a combination of (1) and (2).

(b) Before any disciplinary action is taken under this section, the officer or employee shall have the opportunity to present evidence and to cross examine accusers and witnesses offering evidence against such officer or employee.

(c) Any disciplinary action taken by the head of the entity concerned shall be conclusive with respect to both law and fact.

(d) Nothing contained in this section shall be construed to effect or limit the authority of the head of any entity of the Intelligence Community to terminate the employment of any officer or employee of such entity under any other provision of law.



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FURTHER ADMINISTRATIVE AND DISCIPLINARY ACTION

Sec. 261. In any case in which an employee or agent of any entity of the Intelligence Community is found guilty or liable under section 251 or 253, committed any act or omission which resulted in government liability under section 254, or committed any act or omission which resulted in an award, compromise, or settlement by the United States under section 2672 of title 28, United States Code, the Attorney General shall refer the matter to the head of the appropriate entity of the Intelligence Community for such further administrative investigation and disciplinary action as may be appropriate.

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PART F

PRIVILEGED COMMUNICATIONS; RULEMAKING

PROTECTION OF PRIVILEGED COMMUNICATIONS

Sec. 271. No otherwise privileged communication shall lose its privileged character as a consequence of this Act; and the Attorney General shall promulgate regulations to protect privileged communications against intelligence activities of the United States.

DDA-78-042

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TITLE II -- INTELLIGENCE ACTIVITIES  
AND CONSTITUTIONAL RIGHTS

PART A  
GENERAL PROVISIONS

SHORT TITLE

Sec. 201. This title may be cited as the "Intelligence  
Activities and Constitutional Rights Act of 1978".

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(OL 8-0423)

## STATEMENT OF FINDINGS

Sec. 202. The Congress hereby finds that--

(1) properly limited and controlled intelligence activities conducted within the United States or directed against United States persons abroad are necessary to protect against espionage and other clandestine intelligence activities harmful to the security of the United States, sabotage, international terrorist activities, and assassinations, and to collect information concerning foreign powers, organizations, or persons which is essential to the formulation and conduct of the foreign policy and to the protection of the national security of the United States;

(2) United States intelligence agencies have in the past collected and disseminated unnecessary information about the political activities and personal lives of Americans and have employed surreptitious intelligence collection techniques;

(3) United States intelligence agencies have in the past engaged in covert operations within the United States to disrupt and discredit lawful political activities of individuals and domestic groups;

(4) such illegal or improper intelligence activities undermine the foundations of a free society by depriving persons of liberty without due process of law, by inhibiting the exercise of freedom of speech, press, assembly, and association, by invading the privacy of individuals, and by impairing the integrity of free institutions; and

(5) legislation is needed to allocate clearly the responsibility for directing and supervising all intelligence activities conducted within the United States or directed against United States persons abroad, to establish standards and procedures for the conduct of such activities, to prohibit certain activities, and to establish adequate legal safeguards to ensure adherence to such standards and procedures.

STATEMENT OF PURPOSES

Sec. 203. It is the purpose of this Act--

(1) to provide statutory authorization and guidance for the performance of intelligence activities necessary for the conduct of the foreign affairs and the protection of the national security of the United States;

(2) to safeguard constitutional rights of the individual against violation or infringement by the intelligence activities of the United States by establishing comprehensive statutory standards and procedures in accordance with which all intelligence activities of the United States shall be conducted;

(3) to confer upon the Attorney General authority necessary to permit the Attorney General to participate effectively in ensuring that intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States;

(4) to provide fair and effective remedies for any person whose rights under the Constitution or laws of the United States are infringed upon or violated by the intelligence activities of the United States.

# DEFINITIONS

Sec. 204. (a) Except as otherwise provided in this section, the definitions in Title I, the National Intelligence Act of 1977, shall apply to this title.

(b) As used in this title--

(1) The term "clandestine intelligence activity" means any activity of an intelligence service or network of a foreign power which is planned and executed in a manner intended to conceal the nature or fact of such activity or the role of such foreign power, and any activity carried out in support of such activity.

(2) The term "confidential records" means any information which is not generally available to any private person.

(3) The term "covert human source" means any person acting on behalf of any entity of the Intelligence Community who is directed to collect specific information or material for such entity in a manner intended to conceal the fact of such collection, including any person who voluntarily agrees to perform such activity without compensation.

(4) The term "national agency check" means a record check of the Federal Bureau of Investigation fingerprint and investigative files, the Civil Service Commission security/investigations index, the Department of Defense central investigative index, the central files of the Central Intelligence Agency and the State Department, and, if necessary based on information revealed through the record checks of the foregoing agencies the central files of other Federal agencies.

(5) The term "electronic or signals intelligence activities" means the acquisition of information by the interception of wire communications, radio communications,

or oral communications without the knowledge of all parties, or the installation or use of a device for monitoring to acquire information without the knowledge of the persons or activities monitored, but not including "electronic surveillance" as defined in Chapter 120 of Title 18, United States Code (as set out in S.1566).

(6) The term "electronic surveillance" shall have the same meaning as is found in Chapter 120 of Title 18, United States Code (as set out in S.1566).

(7) The term "foreign organization" means--

(A) any unincorporated association organized outside the United States and not substantially composed of United States citizens or aliens lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act; or

(B) any corporation incorporated outside the United States.

(8) The term "foreign person" means any foreign power, any foreign organization, or any individual who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(9) The term "foreign power" means--

(A) any government of a foreign country;

(B) any corporation incorporated in the United States which is directed and controlled by any government of a foreign country.

(10) The term "mail cover" means any systematic and deliberate inspection of the exterior of mail to or from a particular person before such mail is delivered to the person to whom it is addressed.

(11) The term "physical surveillance" means any unconsented, systematic, and deliberate observation of a

person by any means on a continuing basis, or unconsented acquisition of a nonpublic oral communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance or electronic or signals intelligence activities. This definition does not include overhead reconnaissance not directed at specific United States persons.

(12) The term "United States", when used to describe a geographic location, means the United States and its territories.

(13) The term "United States organization" means any unincorporated association or corporation which is a United States person.

(14) The term "United States person" means--

(A) any citizen of the United States;

(B) any alien lawfully admitted for permanent residence; provided that such alien may be presumed to have lost status as a United States person for purposes of this Act after one year of continuous residence outside the United States until information suggesting an intent to return to the United States as a permanent resident alien is obtained;

(C) any unincorporated association organized in the United States or substantially composed of United States citizens or aliens lawfully admitted for permanent residence; provided that unincorporated associations outside the United States may be presumed not to be United States persons until information suggesting the contrary is obtained; or

(D) any corporation incorporated in the United States which is not directed and controlled by any government of a foreign country.



(15) The term "unlawful", when used with respect to any clandestine intelligence activity, means an activity which involves or may involve a violation of the laws of the United States, any state or subdivision thereof, or, in the case of an activity conducted outside the United States, which would involve a violation of such laws if conducted within the United States.

## RESPONSIBILITIES OF THE ATTORNEY GENERAL

Sec. 205. (a) It shall be the responsibility of the Attorney General to participate, as appropriate, with the National Security Council, the Director of National Intelligence, the Intelligence Oversight Board, and the heads of the entities of the Intelligence Community, in ensuring that all intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States, and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States. In discharging this responsibility, the Attorney General shall--

(1) approve or disapprove all regulations or procedures proposed by the Director of National Intelligence or by the heads of the entities of the Intelligence Community to implement any provision of this Title;

(2) evaluate on a continuing basis all statutes, Executive orders, Presidential directives and memoranda, and all regulations and procedures, relating to intelligence activities to determine whether they adequately protect the privacy and freedom of United States persons, the integrity of United States organizations, and the rights of any other persons who are in the United States, and make such recommendations for changes therein as he may deem necessary to achieve such purposes;

(3) supervise intelligence activities of the Federal Bureau of Investigation, authorized in Title IV of this Act;

(4) review and, when required by this Title approve intelligence activities that may significantly affect the privacy or freedom of United States persons, the integrity of United States organizations, or the rights of any other person who is in the United States; and

(5) submit a written report annually to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on those intelligence activities which under this Title require the approval or review of the Attorney General or his designee.

(b) To assist the Attorney General in the discharge of his responsibilities under this Title, the Attorney General shall designate--

(1) an official or officials from among the Deputy Attorney General and Assistant Attorneys General who shall perform any duty assigned to the Attorney General's designee under this Title, provided that such designation is made prior to the appointment of such official by the President, by and with the advice and consent of the Senate; and

(2) an internal inspection officer having jurisdiction over the intelligence activities of any entity of the Department of Justice who shall perform such duties assigned to the Inspector General of each entity of the Intelligence Community by Section 119(a)(5) of Title I of this Act as are assigned to him by the Attorney General.

PART B

AUTHORITY TO COLLECT INFORMATION CONCERNING UNITED STATES  
PERSONS AND FOREIGN PERSONS WITHIN THE UNITED STATES

SUBPART 1

PRINCIPLES GOVERNING COLLECTION OF  
INFORMATION CONCERNING UNITED STATES PERSONS  
AND FOREIGN PERSONS WITHIN THE UNITED STATES

Sec. 211. (a) No information concerning any United States person or any foreign person within the United States may be collected for any foreign intelligence, counterintelligence, or counterterrorism purpose except in accordance with this part.

(b) Information concerning any United States person or any foreign person within the United States may be collected by any entity of the Intelligence Community with the consent of that person. The consent of any such person shall be requested whenever making such a request would not frustrate the lawful purposes of the collection.

(c) Publicly available information concerning any United States person or any foreign person within the United States may be collected by any entity of the Intelligence Community when such information is relevant to an authorized function of that entity.

(d) All collection of information concerning United States persons or foreign persons within the United States shall be conducted in the manner which least infringes upon the personal rights of such persons. Whenever the information sought can reasonably be obtained from publicly available information, it shall be so obtained. Whenever there is a choice between two or more techniques of collection, each of which can reasonably be expected to obtain the information sought, the technique which least infringes on person rights shall be used.

ATTORNEY GENERAL APPROVAL OF COLLECTION  
UTILIZING CERTAIN TECHNIQUES

Sec. 212. The following techniques may be used to collect information concerning a United States person for any foreign intelligence, counterintelligence, or counterterrorism purpose only under exigent circumstances, or when the Attorney General or his designee, or, in the case of counterintelligence or counterterrorism collection directed against a member of the armed forces, the Secretary of the appropriate branch of the armed forces, has granted written approval with respect to collection concerning such person--

(1) examination of the confidential records of any federal, state, or local tax agency in accordance with any applicable law;

(2) physical surveillance for purposes other than identification;

(3) the direction of covert human sources to collect information;

(4) mail covers;

(5) requests for information pertaining to education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal, state, or local agency; or

(6) electronic surveillance in accordance with either Chapter 120, Title 18, U.S. Code, or Part C of this Title.

## IMPLEMENTING REGULATIONS AND PROCEDURES

Sec. 213. The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, promulgate rules and regulations--

(a) designating those officials of such entity who are empowered to--

(1) authorize the initiation, renewal, or extension of collection of information under this Part; and

(2) authorize the use of particular techniques of collection.

(b) ensuring that the least intrusive techniques necessary to collect information concerning United States persons or foreign persons within the United States are used;

(c) setting out the circumstances in which the initiation or continuation of collection of information under the authority of this Part would be justified and in which the use of a particular technique would be appropriate; and

(d) prescribing requirements for the maintenance of written records, in accordance with Section 125 of this Act, on the use of particular techniques.

SUBPART 2

AUTHORITY TO COLLECT FOREIGN INTELLIGENCE, COUNTER-  
INTELLIGENCE, OR COUNTERTERRORISM INTELLIGENCE  
CONCERNING UNITED STATES PERSONS

AUTHORITY TO COLLECT COUNTERINTELLIGENCE AND COUNTER-  
TERRORISM INTELLIGENCE CONCERNING UNITED STATES PERSONS

Sec. 214. Collection of information may be initiated for counterintelligence or counterterrorism purposes against a United States person who--

(1) is reasonably believed to be engaged in espionage or any other unlawful clandestine collection activity, sabotage, any international terrorist activity, or any assassination, or to be conspiring with or aiding and abetting any person engaged in such activity; or

(2) resides outside the United States and is acting in an official capacity by any foreign power or organization reasonably believed to be engaged in espionage or any other clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination.

AUTHORITY TO COLLECT FOREIGN INTELLIGENCE  
CONCERNING UNITED STATES PERSONS

Sec. 215. Collection of information may be initiated for foreign intelligence purposes against a United States person who--

(1) is reasonably believed to be engaged in espionage, or any other unlawful clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination, or to be conspiring with or aiding and abetting any person engaged in such activity, and when the information sought to be collected is determined by a properly designated official of an entity of the Intelligence Community to be significant foreign intelligence;

(2) is an officer or employee of a foreign power residing abroad, information about whose official duties or activities would constitute significant foreign intelligence; or

(3) is a fugitive from justice, information about whose relationships with foreign governments or international terrorist groups would constitute significant foreign intelligence.



## DURATION OF COLLECTION

Sec. 216. (a) Intelligence collection under the authority of this Subpart may be initiated only upon the written approval of a properly designated official of an entity of the Intelligence Community. Such approval shall be valid for no more than ninety days, renewable in writing for one additional ninety day period.

(b) Intelligence collection under the authority of this Subpart may continue beyond the 180 days authorized in paragraph (a) only if a properly designated official of the entity of the Intelligence Community conducting such collection makes a written finding that continuation of collection is necessary and reasonable. The Attorney General or his designee shall be promptly notified of all such findings.

(c) The Attorney General or his designee, or, when the subject of the collection is a member of the armed forces, the appropriate service Secretary or his designee, shall review annually all collection under this Subpart which has continued beyond 180 days. Such collection shall terminate after such annual review unless the Attorney General or his designee, or, if appropriate, the service Secretary or his designee, makes a written finding that the continuation of collection is necessary and reasonable.

(d) Written findings under Subsections (b) and (c) shall be based on the following considerations--

(1) the degree to which continuation of collection would infringe upon the rights of the subject of the collection;

(2) the importance of the information sought; and

(3) when the collection is for a counterintelligence or counterterrorism purpose--

(A) the credibility and specificity of information already obtained indicating that the subject of the collection is engaged in clandestine intelligence or international terrorist activities; and

(B) the likelihood, immediacy, and magnitude of any harm threatened by such clandestine intelligence or international terrorist activities.

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SUBPART 3

AUTHORITY TO COLLECT INFORMATION  
CONCERNING OTHER UNITED STATES PERSONS

AUTHORITY TO COLLECT INFORMATION CONCERNING  
POTENTIAL TARGETS OF FOREIGN INTELLIGENCE  
SERVICES OR INTERNATIONAL TERRORIST GROUPS

Sec. 217. (a) Information may be collected for up to 180 days by any entity of the Intelligence Community concerning any United States person--

(1) who is reasonably believed to be the object of a recruitment effort by the intelligence service of a foreign power or by any person or organization engaging in any international terrorist activity; or

(2) who is engaged in activity or possesses information or material which is reasonably believed to be the target of any international terrorist activity or the target of any intelligence activity by an intelligence service of any foreign power, or who is reasonably believed to be the target of an assassination attempt by any foreign power or any international terrorist group, but only to the extent necessary to protect against such terrorist or intelligence activity.

(b) Any person who is the subject of collection of information under this section shall be advised of any risks to that person posed by the intelligence activities of a foreign power or by international terrorist activities, and such person's consent for collection shall be requested, unless--

(1) informing the person would jeopardize intelligence sources and methods; or

(2) there is reason to believe that such person may be cooperating with the foreign intelligence service or international terrorist group.

AUTHORITY TO COLLECT INFORMATION CONCERNING  
PERSONS IN CONTACT WITH POTENTIAL ESPIONAGE  
AGENTS OR INTERNATIONAL TERRORISTS

Sec. 218. Information may be collected for up to 90 days by any entity of the Intelligence Community concerning any United States person who has contact with any person who is reasonably believed to be engaged in espionage or any other clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination, but only to the extent necessary to identify such United States person and to determine whether such person has, has had, or will have access to information, disclosure of which to a foreign power would be harmful to the United States.

AUTHORITY TO COLLECT INFORMATION  
CONCERNING POTENTIAL SOURCES OF ASSISTANCE

Sec. 219. Information may be collected for up to 90 days by any entity of the Intelligence Community concerning any United States person who is reasonably believed to be a potential source of information or operational assistance, but only to the extent necessary to determine such person's suitability or credibility as such a source. Collection without the person's consent shall be limited to publicly available information, physical surveillance solely for purposes of identification, national agency checks, requests for records of any federal, state or local law enforcement agency, and interviews. The consent of any such person shall be requested unless a properly designated official of the collecting entity makes a written finding that:

- (1) there is a serious intention to use such person as a source of assistance, and
- (2) such a request would jeopardize the activity for which assistance is sought.

AUTHORITY TO COLLECT INFORMATION FOR THE  
PROTECTION OF THE SECURITY OF INSTALLATIONS,  
PERSONNEL, COMMUNICATIONS, AND SOURCES AND METHODS

Sec. 220. (a) Each entity of the Intelligence Community, in order to determine whether any person within, on the grounds of, or in the immediate vicinity of any installation of that entity should, in accordance with any rule or regulation applicable to that installation, be excluded from that installation or from the immediate vicinity of that installation, may conduct physical surveillance of any such person, may request information from the records of any federal, state, or local law enforcement agency, and may conduct a national agency check.

(b) Each entity of the Intelligence Community may collect information concerning any person who is reasonably believed to be engaging in activities which pose a clear threat to the physical safety of any installation or of any personnel of that entity, provided that within the United States such collection shall be limited to such information as is necessary to determine whether the matter should be referred to an appropriate law enforcement agency, at which point such collection shall be terminated, and provided further that such collection within the United States shall be limited to--

(1) physical surveillance within, on the grounds of, or in the immediate vicinity of any installation of such entity;

(2) national agency checks;

(3) requests for information from the records of any federal, state or local law enforcement agency; and

(4) interviews.

(c) Each entity of the Intelligence Community may collect information concerning any employee or contractor or employee

of a contractor of that entity to determine whether such employee or contractor has violated any rule or regulation of that entity pertaining to the security of that entity's installations, personnel, communications, or sources and methods. Such collection may continue beyond 180 days only with the written approval of the head of the entity. Notwithstanding section 212, the head of each entity may approve in writing the use of the following techniques of collection with respect to any such employee--

(1) examination of the confidential records of any federal, state or local tax agency in accordance with any applicable law;

(2) physical surveillance for purposes other than identification;

(3) the direction of covert human sources to collect information;

(4) mail covers; or

(5) requests for information pertaining to education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal, state or local agency.

(d) No entity of the military services may under this section collect nonpublicly available information concerning any United States person without such person's consent unless--

(1) such person is present on any military installation, is a member of the military services, or is an employee, contractor, or employee of a contractor of the Department of Defense; or

(2) such information is essential to understand or assess the importance of information concerning a particular member of the military services or employee, contractor, or employee of a contractor of the Department of Defense.

SUBPART 4

AUTHORITY TO COLLECT INFORMATION CONCERNING  
FOREIGN PERSONS WITHIN THE UNITED STATES

Sec. 221. Collection of information may be initiated for foreign intelligence, counterintelligence, or counterterrorism intelligence purposes against a foreign person within the United States if--

(1) such person satisfies the standards of this Title for the initiation of collection against United States persons;

(2) such person is an officer or employee of any foreign power or organization; or

(3) the circumstances of such person's presence in the United States make it reasonably likely that such person may engage in espionage or any other clandestine intelligence activity, sabotage, or any international terrorist activity, or may conspire with or aid and abet any person engaged in such activities.



## PART C

AUTHORITY TO COLLECT INTELLIGENCE INFORMATION  
BY THE USE OF ELECTRONIC SURVEILLANCE,  
PHYSICAL SEARCH AND MAIL OPENING

## ELECTRONIC SURVEILLANCE

Sec. 231. (a) No entity of the Intelligence Community may conduct electronic surveillance as defined in Chapter 119 or 120 of Title 18, United States Code, unless authorized to do so in accordance with the provisions of such chapter.

(b) No entity of the Intelligence Community may conduct electronic or signals intelligence activities, not targeted against a United States person, for foreign intelligence purposes unless information so obtained concerning United States persons is treated in accordance with minimization procedures, as defined in Chapter 120 or Title 18, United States Code, approved by the Attorney General.

(c) No entity of the Intelligence Community may intentionally attempt to acquire, directly or indirectly, information concerning a particular United States person or persons by means of electronic or signals intelligence activities, under circumstances in which such person has a reasonable expectation of privacy with respect to activities of the United States Government and a warrant would be required for law enforcement purposes within the United States, except pursuant to this section. Applications for a court order for electronic or signals intelligence activities targeted against a United States person are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the special court having jurisdiction under Section 2523 of Chapter 120, Title 18, United States Code, and a judge to whom an application is made may grant an order, in

conformity with subsection (e), approving electronic or signals intelligence activities targeted against a United States person.

(d) Each application for an order approving electronic or signals intelligence activities under subsection (c) shall be made by a Federal officer in writing upon oath or affirmation to a judge of the special court having jurisdiction under Section 2523 of Chapter 120, Title 18, United States Code. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this section. It shall include the following information--

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity or a description of the target of the electronic or signals intelligence activities;

(4) a statement of the facts and circumstances relied upon by the applicant to justify electronic or signals intelligence activities targeted against a United States person;

(5) a statement of the proposed minimization procedures;

(6) a statement whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the monitoring of another activity, and a statement whether physical entry may be involved;

(7) a statement of the period of time during which the activities are required to be conducted;

(8) a statement of the facts concerning all previous applications that have been made to any judge under this Section or under Chapter 120, Title 18, United States Code, involving the target specified in the application, and the action taken on each previous application; and

(9) any other information or affidavit from any other officer required by the Attorney General in connection with the application or required by the judge as necessary for him to make findings required by Subsection (e).

(e) Upon an application made pursuant to subsection (d) of this section, the judge shall enter an ex parte order as requested or as modified approving electronic or signals intelligence under subsection (c) if he finds that--

(1) the President has authorized the Attorney General to approve applications for electronic or signals intelligence activities targeted against a United States person;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that--

(A) the United States person targeted is an agent of a foreign power as defined in Section 2521(b)(2)(B) of Chapter 120, Title 18, United States Code;

(B) the United States person targeted is engaged in activities outside the United States which, if engaged in within the United States, would meet the definition of agent of a foreign power under Section 2521(b)(2)(B) of Chapter 120, Title 18, United States Code;

(C) the United States person targeted is an officer or employee of a foreign power residing abroad, information about whose official duties or communications may constitute foreign intelligence information as defined in Chapter 120, Title 18, United States Code;

(D) the United States person targeted is a fugitive from justice, information about whose relationships with foreign governments or international terrorist groups would constitute foreign intelligence information as defined in Chapter 120, Title 18, United States Code;

(4) the proposed minimization procedures meet the definition of minimization procedures under Section 2521(b)(8) of Chapter 120, Title 18, United States Code;

(5) the period of time during which the activities are required to be conducted is reasonable; and

(6) where the activities involve the installation of a device, either for monitoring or to intercept communications, such installation is reasonably necessary to effect the activities, and the nature, reliability, or timeliness of the foreign intelligence information sought cannot reasonably be duplicated by other means of collection.

(f) An order approving electronic or signals intelligence activities targeted against a United States person under this Chapter shall--

(1) specify the identify or a description of the target of the activities;

(2) specify whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the monitoring of another activity, and whether physical entry may be involved;

(3) specify the period of time during which the activities are authorized;

(4) where appropriate, specify that the installation of a device is authorized; and

(5) direct that the minimization procedures be followed.

(g) Where the senior United States official of an agency authorized by the President or by statute to conduct electronic or signals intelligence activities in a foreign country reasonably determines that an emergency situation exists such that foreign intelligence information might be lost before an order authorizing such activities targeted against a United States person could with due diligence be obtained, and the basis for the issuance of an order exists, he may authorize the conduct of such activities targeted against a United States person in that foreign country for a period not to exceed 72 hours, provided that--

(1) an application for an order under Subsection (d) of this Section is filed within those 72 hours;

(2) the activities shall cease upon the denial of the order or 72 hours, whichever occurs first; and

(3) information obtained before the order is granted or denied shall, to the maximum extent feasible, be treated in accordance with the minimization procedures in the order or be destroyed and not disseminated if the order is denied.

(h) Nothing in this Section shall be construed to require any agency or any Federal officer or employee to confirm or deny the existence of any cooperative relationship any agency may have with any foreign government or component thereof; to identify any particular such cooperative relationship; or to reveal in any manner whether or not any information used in support of an application for an order was obtained directly or indirectly from such a relationship, or whether or not any foreign government or component thereof may participate in any electronic or signals intelligence activity.

# PHYSICAL SEARCHES

Sec. 232. (a) No entity of the Intelligence Community may conduct unconsented physical searches within the United States or unconsented physical searches directed against United States persons abroad unless--

(1) such searches are conducted under the standards and procedures required by the Constitution or laws of the United States for law enforcement purposes; or

(2) such searches are authorized in an order issued under Subsection (b) of this Section.

(b) Applications for a court order to conduct unconsented physical searches within the United States or directed against a United States person abroad are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to Federal judges having jurisdiction under Section 2423, Title 18, United States Code, and a judge to whom an application to conduct unconsented physical searches within the United States or directed against a United States person abroad is made may grant an order approving unconsented physical searches within the United States or directed against a United States person abroad if--

(1) the purpose is to obtain foreign intelligence information, as defined in Section 2521(b)(5) of Chapter 120, Title 18, United States Code; and

(2) the target of the searches is a foreign power or an agent of a foreign power, as defined in Section 2521(b)(1)-(2) of such Chapter, or in the case of a United States person abroad satisfies the requirements of Section 231 of this Act for electronic or signals intelligence activities.

# MAIL OPENING

Sec. 233. (a) No entity of the Intelligence Community may engage in the opening of mail in United States postal channels or opening of mail of a known United States person in foreign postal channels unless--

(1) such opening of mail is conducted under the standards and procedures required by the Constitution or laws of the United States for law enforcement purposes; or

(2) such opening of mail of a known United States person outside United States postal channels is authorized in an order issued under Subsection (b) of this Section.

(b) Applications for a court order to open the mail of a known United States person in foreign postal channels are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to Federal judges having jurisdiction under Section 2423 of Chapter 120, Title 18, United States Code, and a judge to whom an application to open the mail of a known United States person outside United States postal channels is made may grant an order approving the opening of mail of a known United States person in foreign postal channels if--

(1) the purpose is to obtain foreign intelligence information, as defined in Section 2521(b)(5) of Chapter 120, Title 18, United States Code; and

(2) the United States person is an agent of a foreign power, as defined in Section 2521(b)(2)(B) of such Chapter, or satisfies the requirements of Section 231 of this Act for electronic or signals intelligence activities.

PART D

MAINTENANCE AND DISSEMINATION OF  
INFORMATION CONCERNING UNITED STATES PERSONS .

MAINTENANCE

Sec. 241. (a) Information concerning any United States person which has been collected in the course of collection of information for any foreign intelligence, foreign counter-intelligence, or foreign counterterrorism purpose, which is not publicly available, and which permits the identification of such person, (hereinafter in this chapter referred to as "private information"), may be maintained without such person's consent only if--

(1) intentional collection of information concerning such person has been approved pursuant to the provisions of this title and such information is relevant to the approved purposes of collection;

(2) it is reasonably believed that such information may provide a basis for initiating intentional collection of information pursuant to the provisions of this title;

(3) such information concerns a possible threat to the physical safety of any person;

(4) such information is reasonably believed to be evidence of a crime; or

(5) such information constitutes foreign intelligence, foreign counterintelligence, or foreign counterterrorism information and the United States person concerned is the incumbent of any office of the United States Government having significant responsibility for the conduct of United States defense or foreign policy.

(b) Publicly available information concerning any United States person may be maintained by any entity of the Intelligence Community when relevant to a lawful function of that entity.



DISSEMINATION

Sec. 242. (a) Private information may be disseminated without the person's consent only in accordance with this section.

(b) Private information may be disseminated within the collecting entity or within any department or agency subsequently receiving such information only to those persons who require such information for the discharge of authorized governmental responsibilities.

(c) Private information which constitutes foreign intelligence may be disseminated outside the collecting agency if--

(1) the dissemination is to another department or agency having lawful access to foreign intelligence information and the identity of the United States person is essential to an understanding or assessment of the information's importance; or

(2) such information has been collected at the request of the department or agency to which it is being disseminated, and the request specifies in writing a lawful need for the identity of the United States person concerned.

(d) Private information which constitutes foreign counterintelligence or foreign counterterrorism information may be disseminated outside the collecting agency if--

(1) the dissemination is to another entity of the Intelligence Community having lawful foreign counterintelligence or foreign counterterrorism responsibilities, as the case may be, and having a direct interest in the particular information; or

(2) the dissemination is to a foreign government, if the information indicates that the United States

person concerned may be engaged in international terrorist activities or in clandestine intelligence activities of direct interest to that foreign government, and if such dissemination is clearly in the interest of United States defense or foreign policy.

(e) Private information which related to criminal activity may be disseminated outside the collecting agency if such United States person is apparently involved in such criminal activity or is or may become the victim of that activity, and if--

(1) dissemination is to any federal, state, or local law enforcement agency having investigative jurisdiction over such criminal activity; or

(2) dissemination is to a foreign law enforcement agency having investigative jurisdiction over such criminal activity, and such dissemination is determined by the Attorney General or his designee, having due regard to the seriousness of the activity and any legal obligation imposed on the United States by any treaty or other international agreement, to be in the interests of the United States.

(f) Private information relating to the trustworthiness of any United States person who has or had access to classified information may be disseminated to the department or agency which employs or employed that person, the department or agency which granted that person a security clearance or access to classified information, or to any department or agency having responsibility to investigate that person's trustworthiness.

(g) Private information relating to the suitability of any United States person as a source of assistance for any foreign intelligence, foreign counterintelligence, or foreign

counterterrorism purpose may be disseminated to any entity of the Intelligence Community requesting such information, if the request is made in writing and evidences a reasonable expectation by the requesting agency that such person will be used as such a source of assistance.

MAINTENANCE AND DISSEMINATION  
FOR OVERSIGHT AND OTHER PURPOSES

Sec. 243. (a) In the event that information is collected by a means or in a manner prohibited by this Act, such information may only be maintained or disseminated for purposes of oversight, accountability, and redress.

(b) This chapter shall not be construed to prevent the maintenance or dissemination of information about any United States person in a manner which would clearly not permit the identification of the United States person concerned.

(c) This chapter shall not be construed to affect in any manner any right of Congress or any committee or subcommittee thereto of access to information.

(d) Notwithstanding any other provision of this section, information collected by means of electronic surveillance as defined in chapter 120 of Title 18, United States Code, shall be maintained or disseminated only in accordance with the provisions of part C of this title.

PART E

RESTRICTIONS AND LIMITATIONS

PROHIBITION OF POLITICAL SURVEILLANCE

Sec. 251. No intelligence activity may be directed against any United States person solely upon the basis of such person's exercise of rights protected by the Constitution and laws of the United States, and no intelligence activity may be conducted for the purpose of limiting, disrupting, or interfering with the exercise of any United States person of those rights.

# PARTICIPATION IN ILLEGAL ACTIVITY

Section 252. No person acting on behalf of an entity of the Intelligence Community may participate in any activity within the United States or directed against any United States person which involves the instigation or commission of any violation of the criminal statutes of the United States, unless such activity is undertaken pursuant to procedures approved by the Attorney General and--

- (a) -does not involve violence;
- (b) does not involve a violation of any other provision of this Act; and
- (c) is necessary for a covert human source to obtain information needed to protect against imminent acts of espionage or sabotage, international terrorist activity, or assassination.

RESTRICTIONS ON DOMESTIC SECURITY INVESTIGATIONS

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Sec. 253. No entity of the Intelligence Community other than the entities of the Departments of Justice and Treasury having law enforcement responsibilities may conduct, participate in, or provide the assistance of personnel for use in any domestic security investigation.

RESTRICTIONS ON THE USE OF UNITED STATES  
PERSONS FOR OPERATIONAL ASSISTANCE

Sec. 255. No entity of the Intelligence Community may use any United States person to provide operational assistance in the conduct of clandestine intelligence activities unless such person is informed of the nature of such assistance and of any reasonably anticipated risks to physical safety that such assistance may pose and such person voluntarily consents to provide such assistance.



RESTRICTIONS ON CONTRACTING

Sec. 256. No entity of the Intelligence Community may enter into any contract or arrangement for the provision of goods or services with any private company or institution in the United States unless the entity sponsorship is known to appropriate officials of the company or institution. In the case of any company or institution other than an academic institution, entity is determined, pursuant to procedures approved by the Attorney General, that--

(1) such concealment is necessary to maintain essential cover or proprietary arrangements for intelligence purposes authorized by this Act; and

(2) the contract or arrangement is consistent with the normal provision of goods or services by the company or institution.

RESTRICTIONS ON UNDISCLOSED PARTICIPATION  
IN UNITED STATES ORGANIZATIONS

Sec. 257. (a) No person may, except in accordance with this section, join or otherwise participate in any United States organization, or any other organization within the United States, on behalf of an entity of the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization.

(b) The head of an entity of the Intelligence Community or his designee may authorize participation in a United States organization when necessary to collect information under chapter C of this Act. Such participation shall be confined to the collection of information as authorized by that chapter, and shall be conducted so as not to influence the lawful activities of the organization or its members. Within the United States such participation may be undertaken only on behalf of the Federal Bureau of Investigation.

(c) The head of an entity of the Intelligence Community or his designee may authorize participation in a United States organization when such participation is essential for preparing the participant for assignment to an intelligence activity outside the United States. Such participation shall be conducted so as not to influence the lawful activities of the organization or its members.

(d) The head of an entity or his designee may, when essential for intelligence activities authorized by this Act, authorize participation on behalf of that entity in an organization within the United States which is composed primarily of foreign persons and is acting on behalf of a foreign power.

(e) Nothing in this section shall be construed to prohibit any person employed by an academic institution from

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recommending or assisting in the recruitment of employees or sources of information or operational assistance on behalf of any entity of the Intelligence Community, [provided that the appropriate officials of the institution are notified that such activities are taking place, though the individuals conducting them need not be identified.]

RESTRICTIONS ON THE PROVISION OF  
ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

Sec. 258. (a) Except as otherwise provided in this Act, no entity of the Intelligence Community other than the entities of the Departments of Justice and Treasury having law enforcement responsibilities may provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to state or local police organizations of the United States, or participate in or fund any law enforcement activity within the United States.

(b) Any entity of the Intelligence Community may--

(1) cooperate with appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of such entity;

(2) participate in law enforcement activities, in accordance with this Act, to protect against espionage or any other unlawful clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination; or

(3) with the prior approval of a designated official of such entity, provide specialized equipment, technical knowledge, or, pursuant to procedures approved by the Attorney General, the assistance of expert personnel for use by any federal law enforcement agency or, when lives are endangered, to support local law enforcement agencies.

(c) The Attorney General or his designee shall be notified in a timely manner of such provision of equipment, knowledge or personnel, and shall review at least annually all provision of expert personnel to determine whether the procedures approved by the Attorney General have been followed.

RESTRICTIONS ON THE USE OF HUMAN SUBJECTS  
FOR EXPERIMENTATION

Sec. 259. No entity of the Intelligence Community shall sponsor, contract for, or conduct research on any human subject except in accordance with the guidelines on research involving human subjects issued by the Department of Health, Education and Welfare. The requirements for informed consent and the documentation relating to such consent shall be the same as provided in such guidelines of the Department of Health, Education and Welfare. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research shall have jurisdiction to monitor, under appropriate security arrangements, compliance with such guidelines by the various entities of the Intelligence Community which conduct research on any human subject; and shall advise the Director of National Intelligence and the Secretary of Health, Education and Welfare on any changes in such guidelines as may be necessary to protect fully the health and safety of such human subjects.

PART F

OTHER PROVISIONS

PROTECTION OF PRIVILEGED COMMUNICATIONS

Sec. 261. No otherwise privileged communication shall lose its privileged character as a consequence of this Act; and the Attorney General shall promulgate regulations to protect privileged communications against intelligence activities of the United States.

ADMINISTRATIVE RULEMAKING

Sec. 262. The Director of National Intelligence and the heads of the entities of the Intelligence Community shall, in consultation with and subject to the approval of the Attorney General, formulate regulations necessary to carry out the provisions of this title and submit such proposed regulations to the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate. No such regulation, or amendment thereto, shall become effective until 60 days after the date on which such regulation or amendment, as the case may be, has been submitted to such committees.

EFFECTIVE DATE

Sec. 263. This Title shall become effective the first day of the third clendar month following the month in which it is enacted.



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2-2-78

WORKING DRAFT: NOT FOR PUBLICATION OR DISSEMINATION

INTELLIGENCE ACTIVITIES AND CONSTITUTIONAL RIGHTS ACT OF 1978

TITLE II -- INTELLIGENCE ACTIVITIES AND CONSTITUTIONAL RIGHTS

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- Sec. 201. Short Title
- Sec. 202. Statement of Findings
- Sec. 203. Statement of Purposes
- Sec. 204. Definitions
- Sec. 205. Responsibilities of the Attorney General

PART B -- Authority To Collect Information Concerning United States Persons and Foreign Persons Within the United States

Subpart 1

- Sec. 211. } Principles and Procedures Governing Collection of  
Information Concerning United States Persons and  
Foreign Persons Within the United States  
*General Principles*
- Sec. 212. Implementing Procedures and Regulations

Subpart 2 - Authority to Collect Intelligence Concerning United States Persons

- Sec. 213. Authority to Collect Counterintelligence and Counterterrorism Intelligence Concerning United States Persons
- Sec. 214. Authority to Collect Foreign Intelligence Concerning United States Persons
- Sec. 215. Attorney General Approval of Collection Utilizing Certain Techniques
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- Sec. 217. Authority to Collect Information Concerning Targets of Foreign Intelligence Services or International Terrorists
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- Sec. 219. Authority to Collect Information Concerning Potential Sources of Assistance

- Sec. 220. Authority to Collect Information for the Protection of the Security of Installations, Personnel, Communications, and Sources and Methods

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- Sec. 221. Authority to Collect Information Concerning Foreign Persons within the United States

PART C -- Authority to Collect Intelligence Information by the  
Use of Electronic Surveillance, Physical Search and  
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Sec. 232. Physical Searches

Sec. 233. Mail Opening

PART D - Maintenance and Dissemination of Information Concerning  
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Law Enforcement Authorities

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Sec. 271. Protection of Privileged Communications

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Sec. 201. This title may be cited as the "Intelligence	1.15
Activities and Constitutional Rights Act of 1978".	1.16

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## STATEMENT OF FINDINGS 2.2

Sec. 202. The Congress hereby finds that-- 2.6

(1) properly limited and controlled intelligence. 2.8

activities conducted within the United States or directed against 2.9

United States persons abroad are necessary to protect against

espionage and other clandestine intelligence activities harmful 2.10

to the security of the United States, sabotage, international 2.11

terrorist activities, and assassinations, and to collect

information concerning foreign powers, organizations, or persons 2.12

which is essential to the formulation and conduct of the foreign 2.13

policy and to the protection of the national security of the 2.14

United States;

(2) illegal or improper intelligence activities have 2.16

undermined due process of law, inhibited the exercise of freedom 2.17

of speech, press, assembly, and association, invaded the privacy 2.18

of individuals, and impaired the integrity of free institutions;

and, therefore,

(3) legislation is needed to allocate clearly the 2.20

responsibility for directing and supervising all intelligence 2.21

activities conducted within the United States or against United

States persons abroad, to establish standards and procedures for 2.22

the conduct of such activities, to prohibit certain activities, 2.23

and to establish adequate legal safeguards to ensure adherence to 2.24

such standards and procedures.

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## STATEMENT OF PURPOSES

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Sec. 203. It is the purpose of this Act--

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(1) to provide statutory authorization for intelligence activities directed against United States persons or performed within the United States which are necessary for the conduct of the foreign affairs and the protection of the national security of the United States;

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(2) to establish comprehensive statutory standards and procedures to protect the constitutional rights of the individual against violation or infringement by intelligence activities of the United States;

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(3) to provide fair and effective remedies and sanctions whenever any person's rights under the Constitution or laws of the United States are infringed or violated by intelligence activities of the United States; and

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(4) to delineate the role of the Attorney General in ensuring that intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States.

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## DEFINITIONS

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Sec. 204. (a) Except as otherwise provided in this 4.6  
section, the definitions in title I of this Act shall apply to 4.7  
this title.

(b) As used in this title-- 4.9

(1) The term "clandestine intelligence activity" 4.11  
means any activity on behalf of an intelligence service of a 4.12  
foreign power which is planned and executed in a manner 4.13  
intended to conceal the nature or fact of such activity or  
the role of such foreign power, and any activity carried out 4.14  
in support of such activity.

(2) The term "confidential records" means any 4.16  
documentary information or material which is not generally 4.17  
available to any private person.

(3) The term "covert human source" means any person 4.19  
acting on behalf of any entity of the Intelligence Community 4.20  
who is directed to collect specific information or material 4.21  
for such entity in a manner intended to conceal the fact of 4.22  
such collection, including any person who voluntarily agrees  
to perform such activity without compensation. 4.23

(4) The term "electronic or signals intelligence 4.25  
activities" means the acquisition of information by the 4.26  
interception of wire communications, nonpublic radio  
communications, or oral communications without the knowledge 4.27  
of all parties, or the installation or use of a device for 4.28  
monitoring to acquire information without the knowledge of  
the persons or activities monitored, but not including 4.29

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"electronic surveillance" as defined in chapter 120 of title 4.3  
18, United States Code (as set out in S. 1566).

(5) The term "electronic surveillance" shall have 4.3  
the same meaning as is found in chapter 120 of title 18, 4.3  
United States Code (as set out in S. 1566).

(6) The term "foreign organization" means-- 4.3

(A) any unincorporated association organized 4.3  
outside the United States and not substantially 4.3  
composed of United States citizens or aliens lawfully 4.4  
admitted for permanent residence (as defined in  
section 101(a) (20) of the Immigration and Nationality 4.4  
Act); or

(B) any corporation incorporated outside the 4.4  
United States. 4.4

(7) The term "foreign person" means any foreign 4.4  
power, any foreign organization, or any individual who is 4.4  
not a citizen of the United States or an alien lawfully  
admitted for permanent residence (as defined in section 4.4  
101(a) (20) of the Immigration and Nationality Act). 4.4

(8) The term "foreign power" means-- 4.5

(A) any government of a foreign country; 4.5

(B) any corporation incorporated in the United 4.5  
States which is directed and controlled by any 4.5  
government of a foreign country.

(9) The term "mail cover" means any unconsented, 4.6  
systematic, and deliberate inspection of the exterior of 4.6  
mail to or from a particular person before such mail is 4.6  
delivered to the person to whom it is addressed.

(10) The term "national agency check" means a record 4.64  
check of the Federal Bureau of Investigation fingerprint and 4.65  
investigative files, the Civil Service Commission 4.66  
security/investigations index, the Department of Defense  
central investigative index, the central files of the 4.67  
Central Intelligence Agency and the Department of State, 4.68  
and, if necessary based on information revealed through the  
record checks of the foregoing agencies, the central files 4.69  
of other Federal agencies. 4.70

(11) The term "physical surveillance" means any 4.72  
unconsented, systematic, and deliberate observation of a 4.73  
person by any means on a continuing basis, or unconsented  
acquisition of a nonpublic communication by a person not a 4.74  
party thereto or visibly present thereat through any means 5.1  
not involving electronic surveillance or electronic or 5.2  
signals intelligence activities. This definition does not  
include overhead reconnaissance not directed at specific 5.3  
United States persons.

(12) The term "United States", when used to describe 5.5  
a geographic location, means the United States and its 5.6  
territories.

(13) The term "United States organization" means any 5.8  
unincorporated association or corporation which is a United 5.9  
States person.

(14) The term "unlawful", when used with respect to 5.11  
any clandestine intelligence activity, means an activity 5.12  
which involves or may involve a violation of the laws of the  
United States, any state or subdivision thereof, or, in the 5.13  
case of an activity conducted outside the United States, 5.14



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which would involve a violation of such laws if conducted 5.15  
within the United States.

## RESPONSIBILITIES OF THE ATTORNEY GENERAL

6.2

Sec. 205. (a) It shall be the duty of the Attorney General to participate, as appropriate, in the National Security Council, and with the Director of National Intelligence, the Intelligence Oversight Board, and the heads of the entities of the Intelligence Community, in ensuring that all intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States, and that such activities do not abridge any right guaranteed or protected by the Constitution <sup>or</sup> ~~and~~ laws of the United States. In discharging this duty the Attorney General shall--

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(1) have responsibility for the approval of all regulations or procedures proposed by the Director of National Intelligence or by the heads of the entities of the Intelligence Community to implement any provision of this title;

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(2) evaluate on a continuing basis all statutes, executive orders, presidential directives and memoranda, and all regulations and procedures relating to intelligence activities to determine whether they adequately protect the rights of United States persons under the Constitution and laws of the United States, the integrity of United States organizations, and the legal rights of any other persons who are in the United States, and make such recommendations for changes therein as the Attorney General may deem necessary to achieve such purposes;

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(3) supervise the intelligence activities of the 6.28  
Federal Bureau of Investigation authorized in title IV of 6.29  
this Act;

(4) review or approve intelligence activities when 6.31  
required to do so by this Act; 6.32

(5) submit a written report annually to the 6.34  
Permanent Select Committee on Intelligence of the House of 6.35  
Representatives and the Select Committee on Intelligence of 6.36  
the Senate on those intelligence activities which under this  
title require the approval or review of the Attorney General 6.37  
or his designee.

(b) To assist the Attorney General in the discharge of his 6.39  
responsibilities under this title, the Attorney General shall 6.40  
designate--

(1) an official or officials from among the Deputy 6.42  
Attorney General and assistant Attorneys General who shall 6.43  
perform any duty assigned to the Attorney General's designee 6.44  
under this title, provided that such designation is made  
prior to the appointment of such official by the President, 6.45  
by and with the advice and consent of the Senate; and 6.46

(2) an internal inspection officer having 6.48  
jurisdiction over the intelligence activities of any entity 6.49  
of the Department of Justice who shall perform such duties 6.50  
assigned to the Inspector General of each entity of the  
Intelligence Community by section 119(a) (5) of title I of 6.51  
this Act as are assigned to him by the Attorney General. 6.52

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PART B	7.3
AUTHORITY TO COLLECT INFORMATION CONCERNING UNITED STATES PERSONS AND FOREIGN PERSONS WITHIN THE UNITED STATES	7.5 7.6
SUBPART 1	7.9
PRINCIPLES AND PROCEDURES GOVERNING COLLECTION OF INFORMATION CONCERNING UNITED STATES PERSONS AND FOREIGN PERSONS WITHIN THE UNITED STATES	7.10 7.11 7.12
GENERAL PRINCIPLES	7.14
Sec. 211. (a) No information concerning any United States person or any foreign person within the United States may be collected for any foreign intelligence, counterintelligence, or counterterrorism purpose except in accordance with this part.	7.18 7.19 7.20
(b) Information concerning any United States person or any foreign person within the United States may be collected by any entity of the Intelligence Community with the consent of that person. The consent of any such person shall be requested whenever making such a request would not frustrate the lawful purposes of the collection.	7.22 7.23 7.24 7.25
(c) Publicly available information concerning any United States person or any foreign person within the United States may be collected by any entity of the Intelligence Community when such information is relevant to an authorized function of that entity.	7.27 7.28 7.29
(d) All collection of information concerning United States persons or foreign persons within the United States shall be conducted in the manner which least infringes the personal rights of such persons. Whenever the information sought can reasonably be obtained from publicly available information, it shall be so obtained. Whenever there is a choice between two or more techniques of collection, each of which can reasonably be	7.31 7.32 7.33 7.34 7.35

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expected to <u>o</u> btain the information sought, the technique which	7.36
least infringes personal rights <u>s</u> hall be used.	7.37

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# IMPLEMENTING PFOCEDUPES AND REGULATIONS 8.2

Sec. 212. The head of each entity of the Intelligence 8.6  
Community shall, subject to the approval of the Attorney General, 8.7  
promulgate procedures and regulations--

(a) designating those officials of that entity who 8.9  
are empowered to-- 8.10

(1) authorize the initiation, renewal, or 8.12  
extension of collection of information under this 8.13  
Part; and

(2) authorize the use of particular techniques 8.15  
of collection; 8.16

(b) ensuring that the least intrusive techniques 8.18  
necessary to collect information concerning United States 8.19  
persons or foreign persons within the United States are 8.20  
used;

(c) providing guidance with respect to the 8.22  
circumstances in which the initiation or continuation of 8.23  
collection of information under the authority of this Part 8.24  
would be justified and in which the use of a particular  
technique would be appropriate; and 8.25

(d) prescribing requirements for the maintenance of 8.27  
written records, in accordance with section 125 of this Act, 8.28  
on the use of particular techniques.

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## SUBPART 2

9.3

AUTHORITY TO COLLECT INTELLIGENCE  
CONCERNING UNITED STATES PERSONS

9.5

9.6

AUTHORITY TO COLLECT COUNTERINTELLIGENCE AND  
COUNTERTERRORISM INTELLIGENCE CONCERNING UNITED STATES PERSONS

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Sec. 213. Collection of counterintelligence or 9.13  
counterterrorism intelligence may be initiated concerning any 9.14  
United States person who--

- (1) is reasonably believed to be engaged in 9.16  
espionage or any other unlawful clandestine intelligence 9.17  
activity, sabotage, any international terrorist activity, or 9.18  
any assassination, or to be conspiring with or aiding and  
abetting any person engaged in such activity; or 9.19
- (2) resides outside the United States and is acting 9.21  
in an official capacity for any foreign power or 9.22  
organization reasonably believed to be engaged in espionage  
or any other clandestine intelligence activity, sabotage, 9.23  
any international terrorist activity, or any assassination. 9.24

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AUTHORITY TO COLLECT FOREIGN INTELLIGENCE 10.3  
 CONCERNING UNITED STATES PERSONS 10.4

Sec. 214. Collection of foreign intelligence may be 10.8  
 initiated concerning any United States person who-- 10.9

(1) is reasonably believed to be engaged in 10.11  
 espionage, or any other unlawful clandestine intelligence 10.12  
 activity, sabotage, any international terrorist activity, or  
any assassination, or to be conspiring with or aiding and 10.13  
 abetting any person engaged in such activity, and when the 10.14  
 information sought to be collected is determined by a  
properly designated official of an entity of the 10.15  
 Intelligence Community to be significant foreign 10.16  
 intelligence;

(2) is acting in an official capacity for a foreign 10.18  
 power when information about such person's official duties 10.19  
 or activities would constitute significant foreign 10.20  
 intelligence; or

(3) is a fugitive from justice abroad, information 10.22  
 about whose relationships with foreign governments or 10.23  
 organizations would constitute significant foreign  
 intelligence. 10.24



ATTORNEY GENERAL APPROVAL OF COLLECTION 11.3  
 UTILIZING CERTAIN TECHNIQUES 11.4

Sec. 215. The following techniques may be used to collect 11.8  
 intelligence concerning a United States person <sup>under this subpart, but</sup> only under exigent 11.9  
 circumstances, or when the Attorney General or his designee, or, 11.10  
 in the case of counterintelligence or counterterrorism collection  
 directed against a member of the armed forces, the Secretary of 11.11  
 the appropriate branch of the armed forces, has granted written 11.12  
 approval for collection of information concerning such person-- 11.13

(1) examination of the confidential records of any 11.15  
 federal, state, or local tax agency in accordance with any 11.16  
 applicable law;

(2) physical surveillance for purposes other than 11.18  
 identification; 11.19

(3) the direction of covert human sources to collect 11.21  
 information; 11.22

(4) mail covers in accordance with any applicable 11.24  
 law of the United States; 11.25

(5) requests for information, for purposes other 11.27  
 than identification, pertaining to employment, education, 11.28  
 medical care, insurance, telecommunications services, credit 11.29  
 status, or other financial matters from the confidential  
 records of any private institution or any federal, state, or 11.30  
 local agency; or

(6) electronic surveillance, electronic or signals 11.32  
 intelligence activities, physical search, or mail opening in 11.33  
 accordance with Part C of this title.

## DURATION OF COLLECTION

12.2

Sec. 216. (a) Intelligence collection under the 12.6  
 authority of this Subpart may be initiated only upon the written 12.7  
 approval of a properly designated official of an entity of the 12.8  
 Intelligence Community. Such approval shall be valid for no more  
 than ninety days, renewable in writing for one additional ninety 12.9  
 day period.

(b) Intelligence collection under the authority of this 12.11  
 Subpart may continue beyond the 180 days authorized in paragraph 12.12  
 (a) only if a properly designated official of the entity of the 12.13  
 Intelligence Community conducting such collection makes a written  
 finding that continuation of collection is necessary and 12.14  
 reasonable. The Attorney General or his designee shall be 12.15  
 promptly notified of all such findings.

(c) The Attorney General or his Designee, or, when the 12.17  
 subject of the collection is a member of the armed forces, the 12.18  
 appropriate service Secretary, shall review annually all 12.19  
 collection under this Subpart which has continued beyond 180  
 days. Such collection shall terminate after such annual review 12.20  
 unless the Attorney General or his designee, or, if appropriate, 12.21  
 the service Secretary, makes a written finding that the  
continuation of collection is necessary and reasonable. 12.22

(d) Written findings under subsections (b) and (c) shall 12.24  
 be based on the following considerations-- 12.25

- (1) the degree to which continuation of collection 12.27  
 would infringe the rights of the subject of the collection; 12.28
- (2) the importance of the information sought; and 12.31

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- (3). when the collection is for a counterintelligence 12.33  
or counterterrorism purpose-- 12.34
- (A) the credibility and specificity of 12.36  
information already obtained indicating that the 12.37  
subject of the collection is engaged in espionage or 12.38  
any other clandestine intelligence activity, sabotage, 12.39  
any international terrorist activity, or any  
assassination; and 12.40
- (B) the likelihood, immediacy, and magnitude 12.42  
of any harm threatened by such activity. 12.43

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SUBPART 3	13.3
AUTHORITY TO COLLECT INFORMATION	13.5
CONCERNING OTHER UNITED STATES PERSONS	13.6
AUTHORITY TO COLLECT INFORMATION CONCERNING	13.8
TARGETS OF FOREIGN INTELLIGENCE SERVICES	13.9
OR INTERNATIONAL TERRORISTS	13.10
Sec. 217. (a) Information may be collected for up to 180	13.14
days by any entity of the Intelligence Community concerning any	13.15
United States person--	
(1) who is reasonably believed to be the object of a	13.17
recruitment effort by the intelligence service of a foreign	13.18
power or by any person or organization engaging in any	13.19
international terrorist activity; or	
(2) who is engaged in activity or possesses	13.21
information or material which is reasonably believed to be	13.22
the specific target of any international terrorist activity	13.23
or the target of any clandestine intelligence collection	
activity, or who is reasonably believed to be the target of	13.24
any assassination attempt by any foreign power or by	13.25
international terrorists, but only to the extent necessary	13.26
to protect against such terrorist or intelligence activity	
or assassination.	13.27
(b) Any person who is the subject of collection of	13.29
information under this section shall be advised of any risks to	13.30
that person posed by the intelligence activities of a foreign	13.31
power or by international terrorist activities, and such person's	
consent for collection shall be requested, unless--	13.32
(1) informing the person would jeopardize	13.34
intelligence sources and methods; or	13.35

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(2) there is reason to believe that such person may 13.37  
be cooperating with the foreign intelligence service or 13.38  
international terrorists.

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AUTHORITY TO COLLECT INFORMATION CONCERNING	14.3
PERSONS IN CONTACT WITH <u>SUSPECTED INTELLIGENCE</u>	14.4
<u>AGENTS</u>	14.5

Sec. 218. Information may be collected for up to 90 days 14.9

by any entity of the Intelligence Community concerning any United 14.10

States person who has contact with any person who is reasonably 14.11

believed to be engaged in espionage or any other glandestine 14.12

intelligence collection activity, but only to the extent

necessary to identify such United States person and to determine 14.13

whether such person has, has had, or will have access to 14.14

information, disclosure of which to a foreign power would be 14.15

harmful to the United States.

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AUTHORITY TO COLLECT INFORMATION 15.3  
 CONCERNING POTENTIAL SOURCES OF ASSISTANCE 15.4

Sec. 219. Information may be collected for up to 90 days 15.8  
 by any entity of the Intelligence Community concerning any United 15.9  
 States person who is reasonably believed to be a potential source 15.10  
 of information or operational assistance, but only to the extent 15.11  
 necessary to determine such person's suitability or credibility  
 as such a source. Collection without the person's consent shall 15.12  
 be limited to publicly available information, national agency 15.13  
 checks, and interviews. The consent of any such person shall be 15.14  
 requested unless a properly designated official of the collecting  
 entity makes a written finding that: 15.15

(1) there is a serious intention to use such person 15.17  
 as a source of information or assistance, and 15.18

(2) such a request would jeopardize the activity for 15.20  
 which information or assistance is sought. 15.21

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AUTHORITY TO COLLECT INFORMATION FOR THE	16.3
PROTECTION OF THE SECURITY OF INSTALLATIONS,	16.4
PERSONNEL, COMMUNICATIONS, AND SOURCES AND METHODS	16.5

Sec. 220. (a) Each entity of the Intelligence Community,	16.9
in order to determine whether any person within, on the grounds	16.10
of, or in the immediate vicinity of any installation of that	16.11
entity should, in accordance with any rule or regulation	16.12
applicable to that installation, be excluded from that	
installation or from the immediate vicinity of that installation,	16.13
may conduct physical surveillance of any such person, may request	16.14
information from the records of any federal, state, or local law	16.15
enforcement agency, and may conduct a national agency check.	16.16
(b) Each entity of the Intelligence Community may collect	16.18
information concerning any person who is reasonably believed to	16.19
be engaging in activities which pose a clear threat to the	16.20
physical safety of any installation or of any personnel of that	
entity, provided that within the United States such collection	16.21
shall be limited to such information as is necessary to determine	16.22
whether the matter should be referred to an appropriate law	16.23
enforcement agency, at which point such collection shall be	
terminated, and provided further that such collection within the	16.24
United States shall be limited to--	16.25
(1) physical surveillance within, on the grounds of,	16.27
or in the immediate vicinity of any installation of such	16.28
entity;	
(2) national agency checks;	16.31
(3) requests for information from the records of any	16.33
federal, state, or local law enforcement agency; and	16.34
(4) interviews.	16.36



(c) Each entity of the Intelligence Community may collect 16.38  
information concerning any employee or contractor or employee of 16.39  
a contractor of that entity to determine whether such person has 16.40  
violated any rule or regulation of that entity pertaining to the 16.41  
security of that entity's installations, personnel,  
communications, or sources and methods. Such collection may 16.42  
continue beyond 180 days only with the written approval of the 16.43  
head of the entity. The head of each entity may approve in  
writing the use of the following techniques of collection with 16.44  
respect to any such employee--

(1) examination of the confidential records of any 16.46  
federal, state or local tax agency in accordance with any 16.47  
applicable law;

(2) physical surveillance for purposes other than 16.49  
identification; 16.50

(3) the direction of covert human sources to collect 16.53  
information;

(4) mail covers in accordance with any applicable 16.55  
law of the United States; or 16.56

(5) requests for information, for purposes other 16.58  
than identification, pertaining to employment, education, 16.59  
medical care, insurance, telecommunications services, credit 16.60  
status, or other financial matters from the confidential  
records of any private institution or any federal, state or 16.61  
local agency.

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## SUBPART 4

	17.3
AUTHORITY TO COLLECT INFORMATION CONCERNING FOREIGN PERSONS WITHIN THE UNITED STATES	17.5 17.6
Sec. 221. Collection of information concerning any foreign person within the United States may be initiated for foreign intelligence, counterintelligence, or counterterrorism intelligence purposes if--	17.10 17.11 17.12
(1) such person is an officer or employee of any foreign power or organization;	17.14 17.15
(2) the circumstances of such person's presence in the United States make it reasonably likely that such person may engage in espionage or any other clandestine intelligence activity, sabotage, or any international terrorist activity; or	17.17 17.18 17.19 17.20
(3) such person satisfies the standards of this part for the initiation of collection concerning United States persons, except that any limitation under this part on duration or techniques of collection that would be applicable to collection concerning a United States person need not apply to collection under this section.	17.22 17.23 17.24 17.25 17.26

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## PART C

18.3

AUTHORITY TO COLLECT INTELLIGENCE INFORMATION  
 BY THE USE OF ELECTRONIC SURVEILLANCE,  
 PHYSICAL SEARCH AND MAIL OPENING

18.5

18.6

18.7

## ELECTRONIC SURVEILLANCE

18.9

Sec. 231. (a) No entity of the Intelligence Community 18.13  
 may conduct electronic surveillance as defined in chapters 119 or 18.14  
 120 (as set out in S. 1566) of title 18, United States Code,  
 unless authorized to do so in accordance with the provisions of 18.15  
 such chapter.

(b) No entity of the Intelligence Community may conduct 18.17  
 electronic or signals intelligence activities, not targeted 18.18  
 against a United States person, for foreign intelligence purposes 18.19  
 unless information so obtained concerning United States persons  
 is treated in accordance with minimization procedures, as defined 18.20  
 in chapter 120 of title 18, United States Code, approved by the 18.21  
 Attorney General.

(c) No entity of the Intelligence Community may 18.23  
 intentionally attempt to acquire, directly or indirectly, 18.24  
 information concerning a particular United States person or 18.25  
 persons by means of electronic or signals intelligence  
 activities, under circumstances in which a warrant would be <sup>a person has a reasonable expectation of privacy and</sup> 18.26  
 required for law enforcement purposes within the United States, 18.27  
 except pursuant to this section. Applications for a court order  
 for electronic or signals intelligence activities targeted 18.28  
 against a United States person are authorized if the President 18.29  
 has, by written authorization, empowered the Attorney General to  
 approve applications to the special court having jurisdiction 18.30  
 under section 2523 of chapter 120, title 18, United States Code, 18.31

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and a judge to whom an application is made may grant an order, in conformity with subsection (e), approving electronic or signals intelligence activities targeted against a United States person.

(d) Each application for an order approving electronic or signals intelligence activities under subsection (c) shall be made by a federal officer in writing upon oath or affirmation to a judge of the special court having jurisdiction under section 2523 of chapter 120, title 18, United States Code. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this section. It shall include the following information--

- (1) the identity of the federal officer making the application;
- (2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;
- (3) the identity or a description of the target of the electronic or signals intelligence activities;
- (4) a statement of the facts and circumstances relied upon by the applicant to justify electronic or signals intelligence activities targeted against a United States person;
- (5) a statement of the proposed minimization procedures;
- (6) a statement whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the

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monitoring of another activity, and a statement <u>whether</u>	18.63
physical entry may be involved;	
(7) a statement of the period of time during which	18.65
the activities are required to be conducted;	18.66
(8) a statement of the facts concerning all previous	18.68
applications <u>that</u> have been made to any judge under this	18.69
section or under chapter 120, <u>title 18</u> , United States Code,	18.70
involving the person specified in the <u>application</u> , and the	18.71
action taken on each previous application; and	
(9) any other information or affidavit from any	18.73
other officer required <u>by</u> the Attorney General in connection	18.74
with the application or required <u>by the judge</u> as necessary	19.1
for him to make findings required by subsection (e).	
(e) Upon an application made pursuant to subsection (d) of	19.3
this section, the judge shall enter an <u>ex parte</u> order as	19.4
requested or as modified approving electronic or signals	
<u>intelligence</u> under subsection (c) if he finds that--	19.5
(1) the President has authorized the Attorney	19.7
General to approve applications for <u>electronic or signals</u>	19.8
intelligence activities targeted against a United States	
<u>Person</u> ;	19.9
(2) the application has been made by a federal	19.11
officer and approved <u>by</u> the Attorney General;	19.12
(3) on the basis of the facts submitted by the	19.14
applicant there is <u>probable cause</u> to believe that--	19.15
(A) the United States person targeted is an	19.17
agent of a foreign power <u>as defined</u> in section	19.18
2521(b) (2) (B) of chapter 120, title 18, United States	
<u>Code</u> ;	19.19

(B) the United States person targeted is 19.21  
engaged in activities outside the United States which, 19.22  
if engaged in within the United States, would meet the  
definition of agent of a foreign power under section 19.23  
2521 (b) (2) (B) of chapter 120, title 18, United States 19.24  
Code;

(C) the United States person targeted is an 19.26  
officer or employee of a foreign power residing 19.27  
abroad, information about whose official duties or 19.28  
communications may constitute foreign intelligence  
information as defined in chapter 120, title 18, 19.29  
United States Code;

(D) the United States person targeted is a 19.31  
fugitive from justice abroad, information about whose 19.32  
relationships with foreign governments or  
organizations would constitute foreign intelligence 19.33  
information as defined in chapter 120, title 18, 19.34  
United States Code;

(4) the proposed minimization procedures meet the 19.36  
definition of minimization procedures under section 19.37  
2521 (b) (8) of chapter 120, title 18, United States Code; 19.38

(5) the period of time during which the activities 19.40  
are required to be conducted is reasonable; and 19.41

(6) where the activities involve the installation of 19.43  
a device, either for monitoring or to intercept 19.44  
communications, such installation is reasonably necessary to 19.45  
effect the activities, and the nature, reliability, or  
timeliness of the foreign intelligence information sought 19.46

cannot reasonably be duplicated by other means of 19.47  
collection.

(f) An order approving electronic or signals intelligence 19.49  
activities targeted against a United States person under this 19.50  
part shall--

(1) specify the identity or a description of the 19.52  
target of the activities; 19.53

(2) specify whether the activities involve 19.55  
acquisition of information from a wire communication, from a 19.56  
radio communication, from an oral communication, or from the 19.57  
monitoring of another activity, and whether physical entry 19.58  
may be involved;

(3) specify the period of time during which the 19.60  
activities are authorized; 19.61

(4) where appropriate, specify that the installation 19.63  
of a device is authorized; and 19.64

(5) direct that the minimization procedures be 19.66  
followed. 19.67

(g) Where the senior United States official of an agency 19.69  
authorized by the President or by statute to conduct electronic 19.70  
or signals intelligence activities in a foreign country 19.71  
reasonably determines that an emergency situation exists such  
that foreign intelligence information might be lost before an 19.72  
order authorizing such activities targeted against a United 19.73  
States person could with due diligence be obtained, and the basis 19.74  
for the issuance of an order exists, he may authorize the conduct  
of such activities targeted against a United States person in 20.1  
that foreign country for a period not to exceed 72 hours, 20.2  
provided that--

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(1) an application for an order under subsection (d) 20.4  
of this section is filed within those 72 hours; 20.5

(2) the activities shall cease upon the denial of 20.7  
the order or the expiration of 72 hours, whichever occurs 20.8  
first; and

(3) information obtained before the order is granted 20.10  
or denied shall, to the maximum extent feasible, be treated 20.11  
in accordance with the minimization procedures in the order 20.12  
or be destroyed and not disseminated if the order is denied. 20.13

(h) Nothing in this section shall be construed to require 20.15  
any agency or any federal officer or employee to confirm or deny 20.16  
the existence of any cooperative relationship any agency may have 20.17  
with any foreign government or component thereof; to identify any  
particular such cooperative relationship; or to reveal in any 20.18  
manner whether or not any information used in support of an 20.19  
application for an order was obtained directly or indirectly from  
such a relationship, or whether or not any foreign government or 20.20  
component thereof may participate in any electronic or signals 20.21  
intelligence activity.



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## PHYSICAL SEARCHES

21.2

Sec. 232. (a) No entity of the Intelligence Community	21.6
may conduct unconsented physical searches within the United	21.7
States or unconsented physical searches directed against United	21.8
States persons abroad unless--	
(1) such searches are conducted under the standards	21.10
and procedures required by the Constitution or laws of the	21.11
United States for law enforcement purposes; or	
(2) such searches are authorized in an order issued	21.13
under subsection (b) of this section.	21.14
(b) Applications for a court order to conduct unconsented	21.16
physical searches within the United States or directed against a	21.17
United States person abroad are authorized if the President has,	21.18
by written authorization, empowered the Attorney General to	
approve applications to federal judges having jurisdiction under	21.19
section 2423, title 18, United States Code. A judge to whom an	
application to conduct unconsented physical searches within the	21.20
United States or directed against a United States person abroad	21.21
is made may grant an order approving unconsented physical	21.22
searches within the United States or directed against a United	
States person abroad if--	
(1) the purpose is to obtain foreign intelligence	21.24
information, as defined in section 2521(b)(5) of chapter	21.25
120, title 18, United States Code; and	
(2) the target of the searches is a foreign power or	21.27
an agent of a foreign power, as defined in section	21.28
2521(b)(1)-(2) of such chapter, or in the case of a United	21.29
States person abroad satisfies the requirements of section	

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231 of this Act for the granting of an order approving  
electronic or signals intelligence activities.

21.30

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## MAIL OPENING

22.2

Sec. 233. (a) No entity of the Intelligence Community 22.6  
 may engage in the opening of mail in United States postal 22.7  
 channels or opening of mail of a known United States person not 22.8  
 in United States postal channels unless--

(1) such opening of mail is conducted under the 22.10  
 standards and procedures required by the Constitution or 22.11  
 laws of the United States for law enforcement purposes; or 22.12

(2) such opening of mail of a known United States 22.14  
 person not in United States postal channels is authorized in 22.15  
 an order issued under subsection (b) of this section. 22.16

(b) Applications for a court order to open the mail of a 22.18  
 known United States person not in United States postal channels 22.19  
 are authorized if the President has, by written authorization, 22.20  
 empowered the Attorney General to approve applications to federal 22.21  
 judges having jurisdiction under section 2423 of chapter 120,  
 title 18, United States Code, and a judge to whom an application 22.22  
 to open the mail of a known United States person outside United 22.23  
 States postal channels is made may grant an order approving the 22.24  
 opening of such mail if--

(1) the purpose is to obtain foreign intelligence 22.26  
 information, as defined in section 2521(b) (5) of chapter 22.27  
 120, title 18, United States Code; and 22.28

(2) the United States person satisfies the 22.30  
 requirements of section 231 of this Act for the granting of 22.31  
 an order approving electronic or signals intelligence 22.32  
 activities.

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PART D	23.3
MAINTENANCE AND DISSEMINATION OF INFORMATION CONCERNING UNITED STATES PERSONS	23.5 23.6
MAINTENANCE	23.8
Sec. 241. (a) Information concerning any United States	23.12
person which has been collected in the course of collection of	23.13
information for any foreign intelligence, counterintelligence, or	23.14
counterterrorism purpose, which is not publicly available, and	
which permits the identification of such person (hereinafter in	23.15
this part referred to as "private information"), may be	23.16
maintained without such person's consent only if--	
(1) intentional collection of information concerning	23.18
such person has been approved pursuant to the provisions of	23.19
this title and such information is relevant to the approved	23.20
purposes of collection;	
(2) it is reasonably believed that such information	23.22
may provide a basis for initiating intentional collection of	23.23
information pursuant to the provisions of this title;	23.24
(3) such information concerns a possible threat to	23.26
the physical safety of any person;	23.27
(4) such information is reasonably believed to be	23.29
evidence of a crime;	23.30
(5) such information was collected in the course of	23.32
collecting foreign intelligence and is essential for	23.33
understanding or assessing foreign intelligence; or	23.34
(6) such information constitutes foreign	23.36
intelligence, counterintelligence, or counterterrorism	23.37
intelligence and the United States person concerned is the	
incumbent of any office of the United States Government	23.38

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having significant responsibility for the conduct of United States defense or foreign policy. 23.39

(b) Publicly available information concerning any United States person may be maintained by any entity of the Intelligence Community when relevant to a lawful function of that entity. 23.41 23.42 23.43

(c) This section shall not be construed to prevent the maintenance or dissemination of information about any United States person in a manner which would clearly not permit the identification of the United States person concerned. 23.45 23.46 23.47

(d) Notwithstanding any other provision of this section, information collected by means of electronic surveillance ~~as~~ *or electronic or signals intelligence activities* defined in chapter 120 of title 18, United States Code, shall be maintained or disseminated only in accordance with the provisions of part D of this title. 23.49 23.50 23.51 23.52

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## DISSEMINATION

24.2

Sec. 242. (a) Private information may be disseminated 24.6  
without the consent of the person concerned only in accordance 24.7  
with this section.

(b) Private information may be disseminated within the 24.9  
collecting entity or within any department or agency subsequently 24.10  
receiving such information only to those persons who require such 24.11  
information for the discharge of authorized governmental  
responsibilities. 24.12

(c) Private information which constitutes foreign 24.14  
intelligence may be disseminated outside the collecting agency if 24.15  
the dissemination is to another department or agency having 24.16  
lawful access to foreign intelligence information and the  
identity of the United States person is essential to an 24.17  
understanding or assessment of the information's importance. 24.18

(d) Private information which constitutes 24.20  
counterintelligence or counterterrorism intelligence may be 24.21  
disseminated outside the collecting agency if--

(1) the dissemination is to another entity of the 24.23  
Intelligence Community having lawful counterintelligence or 24.24  
counterterrorism responsibilities, as the case may be, and 24.25  
having a direct interest in the particular information; or

(2) the dissemination is to a foreign government, if 24.27  
the information indicates that the United States person 24.28  
concerned may be engaged in international terrorist 24.29  
activities or in clandestine intelligence activities of  
direct interest to that foreign government, and if such 24.30

dissemination is clearly in the interests of the United States. 24.31

(e) Private information which relates to criminal activity 24.33  
may be disseminated outside the collecting agency if the United 24.34  
States person concerned is apparently involved in such griminal 24.35  
activity or is or may become the victim of that activity, and  
if--

(1) dissemination is to any federal, state, or local 24.37  
law enforcement agency having investigative jurisdiction 24.38  
over such criminal activity or responsibility for protecting 24.39  
against such criminal activity; or

(2) dissemination is to a foreign law enforcement 24.41  
agency having investigative jurisdiction over such criminal 24.42  
activity, and such dissemination is determined by the 24.43  
Attorney General or his designee, having due regard to the  
seriousness of the activity and any legal obligation imposed 24.44  
on the United States by any treaty or other international 24.45  
agreement, to be in the interests of the United States.

(f) Private information relating to the trustworthiness of 24.47  
any United States person who has, had, or will have access to 24.48  
classified information may be disseminated to the department or 24.49  
agency which employs, employed, or will employ that person, the  
department or agency which granted that person a security 24.50  
clearance or access to classified information, or to any 24.51  
department or agency having respoonsibility to investigate that  
person's trustworthiness. 24.52

(g) Private information relating to the suitability of any 24.54  
United States person as a source of information or assistance for 24.55  
any lawful intelligence purpose may be disseminated to any entity 24.56

of the Intelligence Community requesting such information, if the 24.57  
request evidences a serious intention by the requesting agency 24.58  
that such person will be used as such a source of information or  
assistance.



MAINTENANCE AND DISSEMINATION 25.3  
FOR OVERSIGHT PURPOSES 25.4

Sec. 243. (a) In the event that information is collected 25.8  
by a means or in a manner prohibited by this Act, such 25.9  
information may only be maintained or disseminated for purposes 25.10  
of oversight, accountability, and redress. Such information,  
when relevant to any administrative, civil, or criminal 25.11  
proceeding, may not be destroyed or otherwise disposed of if the 25.12  
entity is on notice of such a proceeding.

(b) This chapter shall not be construed to affect in any 25.14  
manner any right of Congress or any committee or subcommittee 25.15  
thereof to access to information.

PART E

RESTRICTIONS AND LIMITATIONS

26.3

PROHIBITION OF POLITICAL SURVEILLANCE

26.5

Sec. 251. No intelligence activity may be directed against 26.9

any United States person solely upon the basis of such person's 26.10

exercise of rights protected by the Constitution and laws of the 26.11

United States, and no intelligence activity may be designed and 26.12

conducted so as to limit, disrupt, or interfere with the exercise 26.13

of those rights by any United States person.

## PROHIBITED DISSEMINATION

27.2

Sec. 252. No person acting on behalf of any entity of the 27.6  
Intelligence Community may disseminate information anonymously or 27.7  
under a false identity concerning any United States person for 27.8  
the purpose~~s~~ of discrediting such person because such person has  
criticized any official or agency of the government or any policy 27.9  
of the government. No such dissemination may be made for any 27.10  
other purpose, except--

(1) to a foreign intelligence service where<sup>n</sup> 27.12  
necessary to protect against espionage or any other unlawful 27.13  
clandestine intelligence activity;

(2) to persons engaged in sabotage, international 27.15  
terrorist activities, or assassination, where<sup>n</sup> necessary to 27.16  
protect against such activity; or

(3) if the information concerns an officer, 27.18  
employee, or person acting for or on behalf of an entity of 27.19  
the Intelligence Community and is necessary to the 27.20  
maintenance of properly authorized cover for such officer,  
employee, or person. 27.21

## PARTICIPATION IN ILLEGAL ACTIVITY

28.2

Sec. 253. No person acting on behalf of an entity of the  
 Intelligence Community may instigate or commit any violation of  
 the criminal statutes of the United States within the United  
 States or directed against any United States person, unless such  
 activity is undertaken pursuant to procedures approved by the  
 Attorney General and--

(A) ☒ does not involve acts of violence;

(b) ☒ does not involve a violation of any other  
 provision of this Act; and

(c) ☒ is necessary to obtain information needed to  
 protect against imminent acts of espionage or sabotage,  
 international terrorist activity, or assassination.

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RESTRICTIONS ON DOMESTIC SECURITY  
INVESTIGATIONS29.3  
29.4

Sec. 254. No entity of the Intelligence Community other 29.8  
than the entities of the Departments of Justice and Treasury 29.9  
having law enforcement responsibilities may conduct, participate 29.10  
in, or provide the assistance of personnel for use in any  
domestic security investigation. 29.11

RESTRICTIONS ON THE USE OF UNITED STATES 30.3  
PERSONS FOR OPERATIONAL ASSISTANCE 30.4

Sec. 255. No entity of the Intelligence Community may use 30.8  
any United States person to provide operational assistance in the 30.9  
conduct of any clandestine intelligence activity unless such 30.10  
person is informed of the nature of such assistance and of any 30.11  
reasonably anticipated risks to physical safety that such  
assistance may pose and such person voluntarily consents to 30.12  
provide such assistance.

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## RESTRICTIONS ON CONTRACTING

31.2

Sec. 256. No entity of the Intelligence Community may 31.6  
 enter into any contract or arrangement for the provision of goods 31.7  
 or services with any private company or institution in the United 31.8  
 States unless the entity sponsorship is known to appropriate 31.9  
 officials of the company or institution. In the case of any  
 company or institution other than an academic institution, entity 31.10  
 sponsorship may be concealed if it is determined, pursuant to 31.11  
 procedures approved by the Attorney General, that--.

(1) such concealment is necessary to maintain 31.13  
 essential cover or proprietary arrangements for intelligence 31.14  
 purposes authorized by this Act; and 31.15

(2) the contract or arrangement is consistent with 31.17  
 the normal provision of goods or services by the company or 31.18  
 institution.

*Section 139 in Title I*

*same*

*Prince J. Called 16/10 hrs 2/7*

*I agreed to delete*  
*concurs*



*16A*

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RESTRICTIONS ON UNDISCLOSED PARTICIPATION 32.3  
IN UNITED STATES ORGANIZATIONS 32.4

- Sec. 257. (a) No person may, except in accordance with 32.8  
this section, join or otherwise participate in any United States 32.9  
organization, or any other organization within the United States, 32.10  
on behalf of an entity of the Intelligence Community without 32.11  
disclosing his intelligence affiliation to appropriate officials  
of the organization. 32.12
- (b) The head of an entity <sup>of the Intelligence Community</sup> or his designee may, when 32.14  
essential for intelligence activities authorized by this Act, 32.15  
authorize participation on behalf of that entity in an 32.16  
organization within the United States which is composed primarily  
of foreign persons and is acting on behalf of a foreign power. 32.17
- (c) The head of an entity of the Intelligence Community or 32.19  
his designee may authorize participation in a United States 32.20  
organization when necessary to collect information under part B 32.21  
of this Act. Such participation shall be confined to the  
collection of information as authorized by that part, and shall 32.22  
be conducted so as not to influence the lawful activities of the 32.23  
organization or its members. Within the United States such  
participation may be undertaken to collect nonpublicly available 32.24  
information only on behalf of the Federal Bureau of 32.25  
Investigation.
- (d) The head of an entity of the Intelligence Community or 32.27  
his designee may authorize participation in a United States 32.28  
organization when such participation is essential for preparing 32.29  
the participant for assignment to an intelligence activity  
outside the United States. Such participation shall be conducted 32.30



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so as not to influence the lawful activities of the organization 32.31  
or its members. 32.32

(e) Nothing in this section shall be construed to prohibit 32.33  
any person employed by any organization from recommending or 32.34  
assisting in the recruitment of employees or sources of 32.35  
information or operational assistance on behalf of any entity of  
the Intelligence Community, (provided that the appropriate 32.36  
officials of any such United States academic institution are 32.37  
notified that such activities are taking place, though the  
individuals conducting them need not be identified.) 32.38

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RESTRICTIONS ON THE PROVISION OF 33.3  
 ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES 33.4

Sec. 258. (a) Except as otherwise provided in this Act, 33.8  
 no entity of the Intelligence Community other than the entities 33.9  
 of the Departments of Justice and Treasury having law enforcement 33.10  
 responsibilities may provide services, equipment, personnel or  
 facilities to the Law Enforcement Assistance Administration or to 33.11  
 state or local police organizations of the United States, or 33.12  
 participate in or fund any law enforcement activity within the  
 United States. 33.13

(b) Any entity of the Intelligence Community may-- 33.16

(1) cooperate with appropriate law enforcement 33.18  
 agencies for the purpose of protecting the personnel and 33.19  
 facilities of such entity and conducting background checks 33.20  
 on applicants for employment;

(2) participate in law enforcement activities, in 33.22  
 accordance with this Act, to protect against espionage or 33.23  
 any other unlawful clandestine intelligence activity, 33.24  
 sabotage, any international terrorist activity, or any  
 assassination; or

(3) with the prior approval of a designated official 33.26  
 of such entity, provide specialized equipment, technical 33.27  
 knowledge, or, pursuant to procedures approved by the 33.28  
 Attorney General, the assistance of expert personnel for use 33.29  
 by any federal law enforcement agency or, when lives are  
 endangered, to support local law enforcement agencies. 33.30

(c) The Attorney General or his designee shall be notified 33.32  
 in a timely manner of such provision of equipment, knowledge, or 33.33  
 personnel, and shall review at least annually all provision of 33.34

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expert personnel to determine whether the procedures approved by the Attorney General have been followed.

33.35

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RESTRICTIONS ON THE USE OF HUMAN  
SUBJECTS FOR EXPERIMENTATION

	34.3
	34.4
Sec. 259. No entity of the Intelligence Community shall	34.8
sponsor, contract for, or conduct research on any human subject	34.9
except in accordance with guidelines on research involving human	34.10
subjects issued by the Department of Health, Education and	
Welfare. The requirements for informed consent and the	34.11
documentation relating to such consent shall be the same as	34.12
provided in such guidelines of the Department of Health,	
Education and Welfare. The National Commission for the	34.13
Protection of Human Subjects of Biomedical and Behavioral	34.14
Research shall have jurisdiction to monitor, under appropriate	
security arrangements, compliance with such guidelines by the	34.15
various entities of the Intelligence Community which conduct	34.16
research on any human subject; and shall advise the Director of	34.17
National Intelligence and the Secretary of Health, Education and	
Welfare on any changes in such guidelines as may be necessary to	34.18
protect fully the health and safety of such human subjects.	34.19

PART F -- Remedies (to be inserted)

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PART G

35.2

OTHER PROVISIONS

35.4

PROTECTION OF PRIVILEGED COMMUNICATIONS

35.6

Sec. 271. No otherwise privileged communication shall lose 35.10  
its privileged character as a consequence of this Act; and the 35.11  
Attorney General shall promulgate regulations to protect 35.12  
privileged communications against intelligence activities of the  
United States. 35.13

ADMINISTRATIVE RULEMAKING

36.2

Sec. 272. The Director of National Intelligence and the  
heads of the entities of the Intelligence Community shall, in  
consultation with and subject to the approval of the Attorney  
General, formulate regulations necessary to carry out the  
provisions of this title. No such regulation, or amendment  
thereto, shall become effective until 60 days after the date on  
which such regulation or amendment, as the case may be, has been  
submitted to the Permanent Select Committee on Intelligence of  
the House of Representatives and the Select Committee on  
Intelligence of the Senate.

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TITLE II -- INTELLIGENCE ACTIVITIES  
AND CONSTITUTIONAL RIGHTSTABLE OF CONTENTS

NOTE: Changes Appearing in 2 February 1978 Draft  
Title II appear herein as hand written  
notations.

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to be renumbered  
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F.



TITLE II -- INTELLIGENCE ACTIVITIES  
AND CONSTITUTIONAL RIGHTS

PART A  
GENERAL PROVISIONS

SHORT TITLE

Sec. 201. This title may be cited as the "Intelligence  
Activities and Constitutional Rights Act of 1978".

## STATEMENT OF FINDINGS

Sec. 202. The Congress hereby finds that--

(1) properly limited and controlled intelligence activities conducted within the United States or directed against United States persons abroad are necessary to protect against espionage and other clandestine intelligence activities harmful to the security of the United States, sabotage, international terrorist activities, and assassinations, and to collect information concerning foreign powers, organizations, or persons which is essential to the formulation and conduct of the foreign policy and to the protection of the national security of the United States;

~~(2) United States intelligence agencies have in the past collected and disseminated unnecessary information about the political activities and personal lives of Americans and have employed surreptitious intelligence collection techniques;~~

~~(3) United States intelligence agencies have in the past engaged in covert operations within the United States to disrupt and discredit lawful political activities of individuals and domestic groups;~~

(4) ~~such~~ illegal or improper intelligence activities have undermined ~~the foundations of a free society by depriving persons of liberty without~~ due process of law, ~~by~~ <sup>ed</sup> inhibiting the exercise of freedom of speech, press, assembly, and association, ~~by~~ <sup>ed</sup> invading the privacy of individuals, and ~~by~~ <sup>ed</sup> impairing the integrity of free institutions; and, therefore,

(5) legislation is needed to allocate clearly the responsibility for directing and supervising all intelligence activities conducted within the United States or ~~directed~~ against United States persons abroad, to establish standards and procedures for the conduct of such activities, to prohibit certain activities, and to establish adequate legal safeguards to ensure adherence to such standards and procedures.

STATEMENT OF PURPOSES

→ directed against United States persons or performed within the United States which are

Sec. 203. It is the purpose of this Act--

(1) to provide statutory authorization and guidance for ~~the performance of~~ intelligence activities necessary for the conduct of the foreign affairs and the protection of the national security of the United States;

~~to safeguard~~ <sup>protect</sup> constitutional rights of the individual against violation or infringement by the intelligence activities of the United States <sup>(2) to</sup> establishing comprehensive statutory standards and procedures, in accordance with which ~~all intelligence activities of the United States shall be conducted,~~

~~(3) to confer upon the Attorney General authority necessary to permit the Attorney General to participate effectively in ensuring that intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States;~~

(3) <sup>as</sup> to provide fair and effective remedies <sup>and sanctions</sup> ~~for~~ any person <sup>whenever</sup> whose rights under the Constitution or laws of the United States are infringed ~~upon~~ or violated by the intelligence activities of the United States;

(4) to delineate the role of the Attorney General in ensuring that intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States.

## DEFINITIONS

Sec. 204. (a) Except as otherwise provided in this section, the definitions in <sup>of this</sup> ~~title I, the National Intelligence Act of 1977~~ shall apply to this title.

(b) As used in this title--

(1) The term "clandestine intelligence activity" means any activity <sup>on behalf</sup> of an intelligence service ~~or network~~ of a foreign power which is planned and executed in a manner intended to conceal the nature or fact of such activity or the role of such foreign power, and any activity carried out in support of such activity.

(2) The term "confidential records" means any <sup>documentary</sup> ~~information~~ <sup>or material</sup> which is not generally available to any private person.

(3) The term "covert human source" means any person acting on behalf of any entity of the Intelligence Community who is directed to collect specific information or material for such entity in a manner intended to conceal the fact of such collection, including any person who voluntarily agrees to perform such activity without compensation.

(4) The term "national agency check" means a record check of the Federal Bureau of Investigation fingerprint and investigative files, the Civil Service Commission security/investigations index, the Department of Defense central investigative index, the central files of the Central Intelligence Agency and the <sup>Department of State</sup> ~~State Department~~, and, if necessary based on information revealed through the record checks of the foregoing agencies, the central files of other Federal agencies.

(4) ~~(5)~~ The term "electronic or signals intelligence activities" means the acquisition of information by the interception of wire communications, <sup>nonpublic</sup> ~~radio~~ communications,

or oral communications without the knowledge of all parties, or the installation or use of a device for monitoring to acquire information without the knowledge of the persons or activities monitored, but not including "electronic surveillance" as defined in Chapter 120 of Title 18, United States Code (as set out in S.1566).

(5) ~~(6)~~ The term "electronic surveillance" shall have the same meaning as is found in Chapter 120 of Title 18, United States Code (as set out in S.1566).

(6) ~~(7)~~ The term "foreign organization" means--

(A) any unincorporated association organized outside the United States and not substantially composed of United States citizens or aliens lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act); or

(B) any corporation incorporated outside the United States.

(7) ~~(8)~~ The term "foreign person" means any foreign power, any foreign organization, or any individual who is not a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

(8) ~~(9)~~ The term "foreign power" means--

(A) any government of a foreign country;

(B) any corporation incorporated in the United States which is directed and controlled by any government of a foreign country.

(9) ~~(10)~~ The term "mail cover" means any <sup>unconsented,</sup> systematic, and deliberate inspection of the exterior of mail to or from a particular person before such mail is delivered to the person to whom it is addressed.

(10) ~~(11)~~ The term "physical surveillance" means any unconsented, systematic, and deliberate observation of a

(10) NAC-see  
P.C. ←

person by any means on a continuing basis, or unconsented acquisition of a nonpublic ~~oral~~ communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance or electronic or signals intelligence activities. This definition does not include overhead reconnaissance not directed at specific United States persons.

(12) The term "United States", when used to describe a geographic location, means the United States and its territories.

(13) The term "United States organization" means any unincorporated association or corporation which is a United States person.

~~(14) The term "United States person" means--~~ \*

~~(A) any citizen of the United States;~~

~~(B) any alien lawfully admitted for permanent residence, provided that such alien may be presumed to have lost status as a United States person for purposes of this Act after one year of continuous residence outside the United States until information suggesting an intent to return to the United States as a permanent resident alien is obtained;~~

~~(C) any unincorporated association organized in the United States or substantially composed of United States citizens or aliens lawfully admitted for permanent residence, provided that unincorporated associations outside the United States may be presumed not to be United States persons until information suggesting the contrary is obtained, or~~

~~(D) any corporation incorporated in the United States which is not directed and controlled by any government of a foreign country.~~

\*Title I definition will apply.

(14) ~~(13)~~ The term "unlawful", when used with respect to any clandestine intelligence activity, means an activity which involves or may involve a violation of the laws of the United States, any state or subdivision thereof, or, in the case of an activity conducted outside the United States, which would involve a violation of such laws if conducted within the United States.

## RESPONSIBILITIES OF THE ATTORNEY GENERAL

Sec. 205. (a) It shall be the ~~responsibility~~ <sup>duty</sup> of the Attorney General to participate, as appropriate, with the National Security Council, <sup>and with</sup> the Director of National Intelligence, the Intelligence Oversight Board, and the heads of the entities of the Intelligence Community, in ensuring that all intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States, and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States.

In discharging this ~~responsibility~~ <sup>duty</sup>, the Attorney General shall--  
~~have responsibility for the~~ <sup>of</sup>

(1) ~~approval or disapproval~~ <sup>of</sup> all regulations or procedures proposed by the Director of National Intelligence or by the heads of the entities of the Intelligence Community to implement any provision of this Title;

(2) evaluate on a continuing basis all statutes, Executive orders, ~~presidential~~ <sup>executive</sup> directives and memoranda, and all regulations and procedures, relating to intelligence activities to determine whether they adequately

~~protect the privacy and freedom of United States persons~~ <sup>rights</sup> ~~the integrity of United States organizations, and the~~ <sup>under the</sup> ~~rights of any other persons who are in the United States,~~ <sup>Constitution and laws of the United States,</sup> ~~and make such recommendations for changes therein as the~~ <sup>legal</sup>

~~Attorney General~~ may deem necessary to achieve such purposes;

(3) supervise intelligence activities of the Federal Bureau of Investigation, authorized in Title IV of this Act;

(4) review ~~and, when required by this Title approve~~ <sup>or</sup> ~~intelligence activities that may significantly affect the~~ <sup>when required to do so by this Act;</sup> ~~privacy or freedom of United States persons, the integrity of United States organizations, or the rights of any other person who is in the United States, and~~



(5) submit a written report annually to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on those intelligence activities which under this <sup>t</sup>Title require the approval or review of the Attorney General or his designee.

(b) To assist the Attorney General in the discharge of his responsibilities under this <sup>t</sup>Title, the Attorney General shall designate--

(1) an official or officials from among the Deputy Attorney General and Assistant Attorneys General who shall perform any duty assigned to the Attorney General's designee under this Title, provided that such designation is made prior to the appointment of such official by the President, by and with the advice and consent of the Senate; and

(2) an internal inspection officer having jurisdiction over the intelligence activities of any entity of the Department of Justice who shall perform such duties assigned to the Inspector General of each entity of the Intelligence Community by Section 119(a)(5) of <sup>t</sup>Title I of this Act as are assigned to him by the Attorney General.

PART B

AUTHORITY TO COLLECT INFORMATION CONCERNING UNITED STATES  
PERSONS AND FOREIGN PERSONS WITHIN THE UNITED STATES

SUBPART 1

PRINCIPLES AND PROCEDURES  
GOVERNING COLLECTION OF  
INFORMATION CONCERNING UNITED STATES PERSONS  
AND FOREIGN PERSONS WITHIN THE UNITED STATES

GENERAL PRINCIPLES

Sec. 211. (a) No information concerning any United States person or any foreign person within the United States may be collected for any foreign intelligence, counterintelligence, or counterterrorism purpose except in accordance with this part.

(b) Information concerning any United States person or any foreign person within the United States may be collected by any entity of the Intelligence Community with the consent of that person. The consent of any such person shall be requested whenever making such a request would not frustrate the lawful purposes of the collection.

(c) Publicly available information concerning any United States person or any foreign person within the United States may be collected by any entity of the Intelligence Community when such information is relevant to an authorized function of that entity.

(d) All collection of information concerning United States persons or foreign persons within the United States shall be conducted in the manner which least infringes upon the personal rights of such persons. Whenever the information sought can reasonably be obtained from publicly available information, it shall be so obtained. Whenever there is a choice between two or more techniques of collection, each of which can reasonably be expected to obtain the information sought, the technique which least infringes on person rights shall be used.

IMPLEMENTING REGULATIONS AND PROCEDURES

212  
Sec. ~~211~~. The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, promulgate ~~rules~~ <sup>procedures</sup> and regulations--

(a) designating those officials of such entity who are empowered to--

(1) authorize the initiation, renewal, or extension of collection of information under this Part; and

(2) authorize the use of particular techniques of collection.

(b) ensuring that the least intrusive techniques necessary to collect information concerning United States persons or foreign persons within the United States are used;

<sup>providing guidance with respect to</sup>  
(c) ~~setting out~~ the circumstances in which the initiation or continuation of collection of information under the authority of this Part would be justified and in which the use of a particular technique would be appropriate; and

(d) prescribing requirements for the maintenance of written records, in accordance with Section 125 of this Act, on the use of particular techniques.

SUBPART 2

AUTHORITY TO COLLECT ~~FOREIGN INTELLIGENCE, COUNTER-~~  
~~INTELLIGENCE, OR COUNTERTERRORISM INTELLIGENCE~~  
CONCERNING UNITED STATES PERSONS

AUTHORITY TO COLLECT COUNTERINTELLIGENCE AND COUNTER-  
TERRORISM INTELLIGENCE CONCERNING UNITED STATES PERSONS

213  
Sec. ~~III~~. Collection of ~~information may be initiated for~~  
counterintelligence or counterterrorism ~~purposes against any~~ intelligence may be initiated.  
United States person who--  
1 concerning

(1) is reasonably believed to be engaged in espionage or  
any other unlawful clandestine ~~collection~~ intelligence activity, sabotage,  
any international terrorist activity, or any assassination, or  
to be conspiring with or aiding and abetting any person engaged  
in such activity; or

(2) resides outside the United States and is acting in  
an official capacity ~~by~~ for any foreign power or organization  
reasonably believed to be engaged in espionage or any other  
clandestine intelligence activity, sabotage, any international  
terrorist activity, or any assassination.

AUTHORITY TO COLLECT FOREIGN INTELLIGENCE  
CONCERNING UNITED STATES PERSONS

214 Foreign intelligence  
Sec. 215. Collection of ~~information~~ may be initiated ~~for~~  
~~concerning any~~  
~~foreign intelligence purposes against a~~ United States person  
who--

(1) is reasonably believed to be engaged in espionage,  
or any other unlawful clandestine intelligence activity, sabo-  
tage, any international terrorist activity, or any assassina-  
tion, or to be conspiring with or aiding and abetting any per-  
son engaged in such activity, and when the information sought  
to be collected is determined by a properly designated official  
of an entity of the Intelligence Community to be significant  
foreign intelligence;

acting in an official capacity for  
(2) is ~~an officer or employee of a foreign power residing~~  
~~abroad~~ when such person's  
information about ~~those~~ official duties or activities  
would constitute significant foreign intelligence; or

(3) is a fugitive from justice, information about whose  
relationships with foreign governments or ~~international~~ organizations  
~~terrorist groups~~ would constitute significant foreign intelli-  
gence.

ATTORNEY GENERAL APPROVAL OF COLLECTION  
UTILIZING CERTAIN TECHNIQUES

<sup>215</sup>  
Sec. ~~215~~. The following techniques may be used to collect intelligence information concerning a United States person <sup>under this subpart, but</sup> ~~for any foreign~~ intelligence, counterintelligence, or counterterrorism purpose only under exigent circumstances, or when the Attorney General or his designee, or, in the case of counterintelligence or counterterrorism collection directed against a member of the armed forces, the Secretary of the appropriate branch of the armed forces, has granted written approval <sup>for</sup> ~~with respect to~~ collection <sup>of information</sup> concerning such person--

(1) examination of the confidential records of any federal, state, or local tax agency in accordance with any applicable law;

(2) physical surveillance for purposes other than identification;

(3) the direction of covert human sources to collect information;

(4) mail covers in accordance with any applicable law of the United States;

(5) requests for information <sup>for purposes other than identification,</sup> ~~pertaining to~~ <sup>employment,</sup> education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal, state, or local agency; or

(6) electronic surveillance in accordance with ~~either Chapter 120, Title 18, U.S. Code, or Part C of this Title.~~

electronic or signals  
intelligence activities, physical  
search, or mail opening

#### DURATION OF COLLECTION

Sec. 216. (a) Intelligence collection under the authority of this Subpart may be initiated only upon the written approval of a properly designated official of an entity of the Intelligence Community. Such approval shall be valid for no more than ninety days, renewable in writing for one additional ninety day period.

(b) Intelligence collection under the authority of this Subpart may continue beyond the 180 days authorized in paragraph (a) only if a properly designated official of the entity of the Intelligence Community conducting such collection makes a written finding that continuation of collection is necessary and reasonable. The Attorney General or his designee shall be promptly notified of all such findings.

(c) The Attorney General or his designee, or, when the subject of the collection is a member of the armed forces, the appropriate service Secretary ~~or his designee~~, shall review annually all collection under this Subpart which has continued beyond 180 days. Such collection shall terminate after such annual review unless the Attorney General or his designee, or, if appropriate, the service Secretary ~~or his designee~~, makes a written finding that the continuation of collection is necessary and reasonable.

(d) Written findings under Subsections (b) and (c) shall be based on the following considerations--

- (1) the degree to which continuation of collection would infringe ~~upon~~ the rights of the subject of the collection;
- (2) the importance of the information sought; and
- (3) when the collection is for a counterintelligence or counterterrorism purpose--

(A) the credibility and specificity of information already obtained indicating that the subject of the collection is engaged in clandestine intelligence activity, sabotage, any international terrorist activities, or any assassination; and

(B) the likelihood, immediacy, and magnitude of any harm threatened by such ~~clandestine intelligence or international terrorist activities~~.



SUBPART 3

AUTHORITY TO COLLECT INFORMATION  
CONCERNING OTHER UNITED STATES PERSONS

AUTHORITY TO COLLECT INFORMATION CONCERNING  
~~POTENTIAL~~ TARGETS OF FOREIGN INTELLIGENCE  
SERVICES OR INTERNATIONAL TERRORIST ~~GROUPS~~

Sec. 217. (a) Information may be collected for up to 180 days by any entity of the Intelligence Community concerning any United States person--

- (1) who is reasonably believed to be the object of a recruitment effort by the intelligence service of a foreign power or by any person or organization engaging in any international terrorist activity; or
- (2) who is engaged in activity or possesses information or material which is reasonably believed to be the *specific* target of any international terrorist activity or the target of any *clandestine* *collection* ~~intelligence activity by an intelligence service of any foreign power~~, or who is reasonably believed to be the target of an assassination attempt by any foreign power or any international terrorist group, but only to the extent necessary to protect against such terrorist or intelligence activity.

(b) Any person who is the subject of collection of information under this section shall be advised of any risks to that person posed by the intelligence activities of a foreign power or by international terrorist activities, and such person's consent for collection shall be requested, unless--

- (1) informing the person would jeopardize intelligence sources and methods; or
- (2) there is reason to believe that such person may be cooperating with the foreign intelligence service or international terrorist <sup>S</sup>~~group~~.

AUTHORITY TO COLLECT INFORMATION CONCERNING  
PERSONS IN CONTACT WITH ~~POTENTIAL ESPIONAGE~~  
~~AGENTS OR INTERNATIONAL TERRORISTS~~ SUSPECTED  
INTELLIGENCE AGENTS

Sec. 218. Information may be collected for up to 90 days by any entity of the Intelligence Community concerning any United States person who has contact with any person who is reasonably believed to be engaged in espionage or any other clandestine intelligence <sup>collection</sup> activity, ~~sabotage, any international terrorist activity, or any assassination~~, but only to the extent necessary to identify such United States person and to determine whether such person has, has had, or will have access to information, disclosure of which to a foreign power would be harmful to the United States.

AUTHORITY TO COLLECT INFORMATION  
CONCERNING POTENTIAL SOURCES OF ASSISTANCE

Sec. 219. Information may be collected for up to 90 days by any entity of the Intelligence Community concerning any United States person who is reasonably believed to be a potential source of information or operational assistance, but only to the extent necessary to determine such person's suitability or credibility as such a source. Collection without the person's consent shall be limited to publicly available information, ~~physical surveillance solely for purposes of identification,~~ national agency checks, ~~requests for records of any federal, state or local law enforcement agency,~~ and interviews. The consent of any such person shall be requested unless a properly designated official of the collecting entity makes a written finding that:

(1) there is a serious intention to use such person as a source of assistance, and

(2) such a request would jeopardize the activity for which <sup>information or</sup> assistance is sought.

AUTHORITY TO COLLECT INFORMATION FOR THE  
PROTECTION OF THE SECURITY OF INSTALLATIONS,  
PERSONNEL, COMMUNICATIONS, AND SOURCES AND METHODS

Sec. 220. (a) Each entity of the Intelligence Community, in order to determine whether any person within, on the grounds of, or in the immediate vicinity of any installation of that entity should, in accordance with any rule or regulation applicable to that installation, be excluded from that installation or from the immediate vicinity of that installation, may conduct physical surveillance of any such person, may request information from the records of any federal, state, or local law enforcement agency, and may conduct a national agency check.

(b) Each entity of the Intelligence Community may collect information concerning any person who is reasonably believed to be engaging in activities which pose a clear threat to the physical safety of any installation or of any personnel of that entity, provided that within the United States such collection shall be limited to such information as is necessary to determine whether the matter should be referred to an appropriate law enforcement agency, at which point such collection shall be terminated, and provided further that such collection within the United States shall be limited to--

(1) physical surveillance within, on the grounds of, or in the immediate vicinity of any installation of such entity;

(2) national agency checks;

(3) requests for information from the records of any federal, state or local law enforcement agency; and

(4) interviews.

(c) Each entity of the Intelligence Community may collect information concerning any employee or contractor or employee

of a contractor of that entity to determine whether such <sup>person</sup> ~~employee~~  
~~or contractor~~ has violated any rule or regulation of that entity  
 pertaining to the security of that entity's installations, per-  
 sonnel, communications, or sources and methods. Such collec-  
 tion may continue beyond 180 days only with the written approval  
 of the head of the entity. ~~Notwithstanding section 212,~~ <sup>T</sup> The head  
 of each entity may approve in writing the use of the following  
 techniques of collection with respect to any such employee--

(1) examination of the confidential records of any  
 federal, state or local tax agency in accordance with  
 any applicable law;

(2) physical surveillance for purposes other than  
 identification;

(3) the direction of covert human sources to collect  
 information;

(4) mail covers, <sup>in accordance with any applicable law</sup>  
<sup>of the United States; or</sup>

(5) requests for information <sup>pertaining to education,</sup>  
<sup>to employment,</sup>  
 medical care, insurance, telecommunications services,  
 credit status, or other financial matters from the confi-  
 dential records of any private institution or any federal,  
 state or local agency.

<sup>for purposes other than identification,</sup> ~~(d) No entity of the military services may under this sec-~~  
~~tion collect nonpublicly available information concerning any~~  
~~United States person without such person's consent unless~~

~~(1) such person is present on any military installa-~~  
~~tion, is a member of the military services, or is an em-~~  
~~ployee, contractor, or employee of a contractor of the~~  
~~Department of Defense; or~~

~~(2) such information is essential to understand~~  
~~or assess the importance of information concerning a~~  
~~particular member of the military services or employee,~~  
~~contractor, or employee of a contractor of the Department~~  
~~of Defense.~~

SUBPART 4

AUTHORITY TO COLLECT INFORMATION CONCERNING  
FOREIGN PERSONS WITHIN THE UNITED STATES

Sec. 221. Collection of information may be initiated for foreign intelligence, counterintelligence, or counterterrorism intelligence purposes ~~against~~ <sup>concerning any</sup> foreign person within the United States if--

~~such~~ such person satisfies the standards of this ~~title part~~ for the initiation of collection against United States persons;

(1) ~~(2)~~ such person is an officer or employee of any foreign power or organization; ~~or~~

(2) ~~(3)~~ the circumstances of such person's presence in the United States make it reasonably likely that such person may engage in espionage or any other clandestine intelligence activity, sabotage, or any international terrorist activity; or ~~may conspire with or aid and abet any person engaged in such activities.~~

(3) ~~except~~ that any limitation under this part on duration or techniques of collection that would be applicable to collection concerning a United States person need not apply to collection under this section.

PART C \*

AUTHORITY TO COLLECT INTELLIGENCE INFORMATION  
BY THE USE OF ELECTRONIC SURVEILLANCE,  
PHYSICAL SEARCH AND MAIL OPENING

ELECTRONIC SURVEILLANCE

Sec. 231. (a) No entity of the Intelligence Community may conduct electronic surveillance as defined in Chapter 119 <sup>(as set out in S. 1566)</sup> or 120<sup>^</sup> of Title 18, United States Code, unless authorized to do so in accordance with the provisions of such chapter.

(b) No entity of the Intelligence Community may conduct electronic or signals intelligence activities, not targeted against a United States person, for foreign intelligence purposes unless information so obtained concerning United States persons is treated in accordance with minimization procedures, as defined in Chapter 120 or Title 18, United States Code, approved by the Attorney General.

(c) No entity of the Intelligence Community may intentionally attempt to acquire, directly or indirectly, information concerning a particular United States person or persons by means of electronic or signals intelligence activities, under circumstances in which <sup>a</sup> ~~such~~ person has a reasonable expectation of privacy ~~with respect to activities of the United States Government~~ and a warrant would be required for law enforcement purposes within the United States, except pursuant to this section. Applications for a court order for electronic or signals intelligence activities targeted against a United States person are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the special court having jurisdiction under Section 2523 of Chapter 120, Title 18, United States Code, and a judge to whom an application is made may grant an order, in

\* The SSCI staff has indicated this Part may be pulled from this title and, possibly along with S. 1566 (the present electronic-surveillance-within-the-US bill), <sup>approved as an entirely new title</sup> approved For Release 2002/05/29 : CIA-RDP85-00759R000100100004-1

conformity with subsection (e), approving electronic or signals intelligence activities targeted against a United States person.

(d) Each application for an order approving electronic or signals intelligence activities under subsection (c) shall be made by a Federal officer in writing upon oath or affirmation to a judge of the special court having jurisdiction under Section 2523 of Chapter 120, Title 18, United States Code. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this section. It shall include the following information--

- (1) the identity of the Federal officer making the application;
- (2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;
- (3) the identity or a description of the target of the electronic or signals intelligence activities;
- (4) a statement of the facts and circumstances relied upon by the applicant to justify electronic or signals intelligence activities targeted against a United States person;
- (5) a statement of the proposed minimization procedures;
- (6) a statement whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the monitoring of another activity, and a statement whether physical entry may be involved;



(7) a statement of the period of time during which the activities are required to be conducted;

(8) a statement of the facts concerning all previous applications that have been made to any judge under this ~~Section~~ or under Chapter 120, Title 18, United States Code, involving the target specified in the application, and the action taken on each previous application; and

(9) any other information or affidavit from any other officer required by the Attorney General in connection with the application or required by the judge as necessary for him to make findings required by Subsection (e).

(e) Upon an application made pursuant to subsection (d) of this section, the judge shall enter an ex parte order as requested or as modified approving electronic or signals intelligence under subsection (c) if he finds that--

(1) the President has authorized the Attorney General to approve applications for electronic or signals intelligence activities targeted against a United States person;

(2) the application has been made by a ~~f~~<sup>s</sup>ederal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that--

(A) the United States person targeted is an agent of a foreign power as defined in Section 2521(b)(2)(B) of Chapter 120, Title 18, United States Code;

(B) the United States person targeted is engaged in activities outside the United States which, if engaged in within the United States, would meet the definition of agent of a foreign power under Section 2521(b)(2)(B) of Chapter 120, Title 18, United States Code;

(C) the United States person targeted is an officer or employee of a foreign power residing abroad, information about whose official duties or communications may constitute foreign intelligence information as defined in Chapter 120, Title 18, United States Code;

(D) the United States person targeted is a fugitive from justice, information about whose relationships with foreign governments or ~~international organizations~~ ~~terrorist groups~~ would constitute foreign intelligence information as defined in Chapter 120, Title 18, United States Code;

(4) the proposed minimization procedures meet the definition of minimization procedures under Section 2521(b)(8) of Chapter 120, Title 18, United States Code;

(5) the period of time during which the activities are required to be conducted is reasonable; and

(6) where the activities involve the installation of a device, either for monitoring or to intercept communications, such installation is reasonably necessary to effect the activities, and the nature, reliability, or timeliness of the foreign intelligence information sought cannot reasonably be duplicated by other means of collection.

(f) An order approving electronic or signals intelligence activities targeted against a United States person under this Chapter shall--

(1) specify the identify or a description of the target of the activities;

(2) specify whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the monitoring of another activity, and whether physical entry may be involved;

(3) specify the period of time during which the activities are authorized;

(4) where appropriate, specify that the installation of a device is authorized; and

(5) direct that the minimization procedures be followed.

(g) Where the senior United States official of an agency authorized by the President or by statute to conduct electronic or signals intelligence activities in a foreign country reasonably determines that an emergency situation exists such that foreign intelligence information might be lost before an order authorizing such activities targeted against a United States person could with due diligence be obtained, and the basis for the issuance of an order exists, he may authorize the conduct of such activities targeted against a United States person in that foreign country for a period not to exceed 72 hours, provided that--

(1) an application for an order under <sup>s</sup>Subsection (d) of this Section is filed within those 72 hours;

(2) the activities shall cease upon the denial of the order or <sup>the expiration of</sup> 72 hours, whichever occurs first; and

(3) information obtained before the order is granted or denied shall, to the maximum extent feasible, be treated in accordance with the minimization procedures in the order or be destroyed and not disseminated if the order is denied.

(h) Nothing in this Section shall be construed to require any agency or any Federal officer or employee to confirm or deny the existence of any cooperative relationship any agency may have with any foreign government or component thereof; to identify any particular such cooperative relationship; or to reveal in any manner whether or not any information used in support of an application for an order was obtained directly or indirectly from such a relationship, or whether or not any foreign government or component thereof may participate in any electronic or signals intelligence activity.

PHYSICAL SEARCHES

Sec. 232. (a) No entity of the Intelligence Community may conduct unconsented physical searches within the United States or unconsented physical searches directed against United States persons abroad unless--

(1) such searches are conducted under the standards and procedures required by the Constitution or laws of the United States for law enforcement purposes; or

(2) such searches are authorized in an order issued under ~~§~~ subsection (b) of this ~~§~~ section.

(b) Applications for a court order to conduct unconsented physical searches within the United States or directed against a United States person abroad are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to ~~§~~ Federal judges having jurisdiction under Section 2423, Title 18, United States Code, ~~and a~~ judge to whom an application to conduct unconsented physical searches within the United States or directed against a United States person abroad is made may grant an order approving unconsented physical searches within the United States or directed against a United States person abroad if--

(1) the purpose is to obtain foreign intelligence information, as defined in Section 2521(b)(5) of Chapter 120, Title 18, United States Code; and

(2) the target of the searches is a foreign power or an agent of a foreign power, as defined in Section 2521(b)(1)-(2) of such Chapter, or in the case of a United States person abroad satisfies the requirements of Section 231 of this Act for <sup>the granting of an order approving</sup> electronic or signals intelligence activities.

# MAIL OPENING

Sec. 233. (a) No entity of the Intelligence Community may engage in the opening of mail in United States postal channels or opening of mail of a known United States person <sup>not in United</sup> ~~in foreign~~ States postal channels unless--

(1) such opening of mail is conducted under the standards and procedures required by the Constitution or laws of the United States for law enforcement purposes; or

(2) such opening of mail of a known United States person <sup>not in</sup> ~~outside~~ United States postal channels is authorized in an order issued under <sup>S</sup> ~~Subsection~~ (b) of this <sup>S</sup> ~~Section~~.

(b) Applications for a court order to open the mail of a known United States person <sup>not United States</sup> ~~in foreign~~ postal channels are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to <sup>f</sup> ~~Federal~~ judges having jurisdiction under <sup>S</sup> ~~Section~~ 2423 of Chapter 120, <sup>t</sup> ~~Title~~ 18, United States Code, and a judge to whom an application to open the mail of a known United States person outside United States postal channels is made may grant an order approving the opening of mail <sup>such</sup> ~~of a known United States person in foreign~~ ~~postal channels~~ if--

(1) the purpose is to obtain foreign intelligence information, as defined in Section 2521(b)(5) of <sup>t</sup> ~~Chapter~~ 120, <sup>t</sup> ~~Title~~ 18, United States Code; and

(2) the United States person ~~is an agent of a foreign power, as defined in Section 2521(b)(2)(B) of such Chapter~~ or satisfies the requirements of <sup>the granting of an order approving</sup> ~~Section~~ 231 of this Act for <sup>A</sup> ~~electronic or signals intelligence~~ activities.

ILLEGIB

## PART D

MAINTENANCE AND DISSEMINATION OF  
INFORMATION CONCERNING UNITED STATES PERSONS .

## MAINTENANCE

Sec. 241. (a) Information concerning any United States person which has been collected in the course of collection of information for any foreign intelligence, foreign counter-intelligence, or ~~foreign~~ counterterrorism purpose, which is not publicly available, and which permits the identification of such person, (hereinafter in this ~~chapter~~ <sup>part</sup> referred to as "private information"), may be maintained without such person's consent only if--

(1) intentional collection of information concerning such person has been approved pursuant to the provisions of this title and such information is relevant to the approved purposes of collection;

(2) it is reasonably believed that such information may provide a basis for initiating intentional collection of information pursuant to the provisions of this title;

(3) such information concerns a possible threat to the physical safety of any person;

(4) such information is reasonably believed to be evidence of a crime; ~~or~~

(5)  
(6) ~~(5)~~ such information constitutes foreign intelligence, foreign counterintelligence, or foreign counterterrorism information and the United States person concerned is the incumbent of any office of the United States Government having significant responsibility for the conduct of United States defense or foreign policy.

(b) Publicly available information concerning any United States person may be maintained by any entity of the Intelligence Community when relevant to a lawful function of that entity.

DISSEMINATION

Sec. 242. (a) Private information may be disseminated without the ~~person's~~ <sup>of the person concerned</sup> consent only in accordance with this section.

(b) Private information may be disseminated within the collecting entity or within any department or agency subsequently receiving such information only to those persons who require such information for the discharge of authorized governmental responsibilities.

(c) Private information which constitutes foreign intelligence may be disseminated outside the collecting agency if ~~the~~

~~the~~ the dissemination is to another department or agency having lawful access to foreign intelligence information and the identity of the United States person is essential to an understanding or assessment of the information's importance. ~~the~~

~~(2) such information has been collected at the request of the department or agency to which it is being disseminated, and the request specifies in writing a lawful need for the identity of the United States person concerned.~~

(d) Private information which constitutes ~~foreign~~ counterintelligence or ~~foreign~~ counterterrorism information may be disseminated outside the collecting agency if--

(1) the dissemination is to another entity of the Intelligence Community having lawful ~~foreign~~ counterintelligence or ~~foreign~~ counterterrorism responsibilities, as the case may be, and having a direct interest in the particular information; or

(2) the dissemination is to a foreign government, if the information indicates that the United States

person concerned may be engaged in international terrorist activities or in clandestine intelligence activities of direct interest to that foreign government, and if such dissemination is clearly in the interest of United States. ~~defense or foreign policy.~~

(e) Private information which related<sup>s</sup> to criminal activity may be disseminated outside the collecting agency if such United States person<sup>concerned</sup> is apparently involved in such criminal activity or is or may become the victim of that activity, and if--

(1) dissemination is to any federal, state, or local law enforcement agency having investigative jurisdiction over such criminal activity, or responsibility for protecting against such criminal activity; or

(2) dissemination is to a foreign law enforcement agency having investigative jurisdiction over such criminal activity, and such dissemination is determined by the Attorney General or his designee, having due regard to the seriousness of the activity and any legal obligation imposed on the United States by any treaty or other international agreement, to be in the interests of the United States.

(f) Private information relating to the trustworthiness of any United States person who has, ~~or~~ had<sup>or will have</sup> access to classified information may be disseminated to the department or agency which employs, ~~or~~ employed<sup>or will employ</sup> that person, the department or agency which granted that person a security clearance or access to classified information, or to any department or agency having responsibility to investigate that person's trustworthiness.

(g) Private information relating to the suitability of any United States person as a source of assistance for any lawful ~~foreign intelligence, foreign counterintelligence, or foreign~~



~~counterterrorism~~ purpose may be disseminated to any entity of the Intelligence Community requesting such information, if the request ~~is made in writing and evidences a~~ **serious intention** ~~reasonable expecta-~~ ~~tion~~ by the requesting agency that such person will be used as such a source of assistance.

MAINTENANCE AND DISSEMINATION  
FOR OVERSIGHT ~~AND OTHER~~ PURPOSES

Sec. 243. (a) In the event that information is collected by a means or in a manner prohibited by this Act, such information may only be maintained or disseminated for purposes of oversight, accountability, and redress. >

~~(b) This chapter shall not be construed to prevent the maintenance or dissemination of information about any United States person in a manner which would clearly not permit the identification of the United States person concerned.~~

~~(b)~~ <sup>of to</sup> This chapter shall not be construed to affect in any manner any right of Congress or any committee or subcommittee thereof ~~of~~ access to information.

~~(d) Notwithstanding any other provision of this section, information collected by means of electronic surveillance as defined in chapter 120 of Title 18, United States Code, shall be maintained or disseminated only in accordance with the provisions of part C of this title.~~

Such information, when relevant to any administrative, civil, or criminal proceeding, may not be destroyed or otherwise disposed of if the entity is on notice of such a proceeding.

PART E

RESTRICTIONS AND LIMITATIONS

PROHIBITION OF POLITICAL SURVEILLANCE

Sec. 251. No intelligence activity may be directed against any United States person solely upon the basis of such person's exercise of rights protected by the Constitution and laws of the United States, and no intelligence activity may be <sup>designed and</sup> conducted <sup>so as to</sup> ~~for the purpose of limiting, disrupting, or interfering~~ with the exercise ~~of~~ any United States person, of those rights by

## PROHIBITED DISSEMINATION

~~27.2~~

Sec. 252. No person acting on behalf of any entity of the Intelligence Community may disseminate information anonymously or under a false identity concerning any United States person for the purpose of discrediting such person because such person has criticized any official or agency of the government or any policy of the government. No such dissemination may be made for any other purpose, except--

~~27.6~~~~27.7~~~~27.8~~~~27.9~~~~27.10~~

(1) to a foreign intelligence service where necessary to protect against espionage or any other unlawful clandestine intelligence activity;

~~27.12~~~~27.13~~

(2) to persons engaged in sabotage, international terrorist activities, or assassination, where necessary to protect against such activity; or

~~27.15~~~~27.16~~

(3) if the information concerns an officer, employee, or person acting for or on behalf of an entity of the Intelligence Community and is necessary to the maintenance of properly authorized cover for such officer, employee, or person.

~~27.18~~~~27.19~~~~27.20~~~~27.21~~

PARTICIPATION IN ILLEGAL ACTIVITY

Section 25<sup>3</sup> No person acting on behalf of an entity of the Intelligence Community may ~~participate in any activity within the United States or directed against any United States person which involves the~~ instigation<sup>e</sup> or commission<sup>1</sup> of any violation of the criminal statutes of the United States, unless such activity is undertaken pursuant to procedures approved by the Attorney General and--

- (a) -does not involve violence;
- (b) does not involve a violation of any other provision of this Act; and
- (c) is necessary ~~for a covert human source~~ to obtain information needed to protect against imminent acts of espionage or sabotage, international terrorist activity, or assassination.

RESTRICTIONS ON DOMESTIC SECURITY INVESTIGATIONS

Sec. 25~~4~~. No entity of the Intelligence Community other than the entities of the Departments of Justice and Treasury having law enforcement responsibilities may conduct, participate in, or provide the assistance of personnel for use in any domestic security investigation.

RESTRICTIONS ON THE USE OF UNITED STATES  
PERSONS FOR OPERATIONAL ASSISTANCE

Sec. 255. No entity of the Intelligence Community may use any United States person to provide operational assistance in the conduct of clandestine intelligence activities unless such person is informed of the nature of such assistance and of any reasonably anticipated risks to physical safety that such assistance may pose and such person voluntarily consents to provide such assistance.

RESTRICTIONS ON CONTRACTING

Sec. 256. No entity of the Intelligence Community may enter into any contract or arrangement for the provision of goods or services with any private company or institution in the United States unless the entity sponsorship is known to appropriate officials of the company or institution. In the case of any company or institution other than an academic institution, <sup>sponsorship may be concealed if it</sup> entity is determined, pursuant to procedures approved by the Attorney General, that--

(1) such concealment is necessary to maintain essential cover or proprietary arrangements for intelligence purposes authorized by this Act; and

(2) the contract or arrangement is consistent with the normal provision of goods or services by the company or institution.



RESTRICTIONS ON UNDISCLOSED PARTICIPATION  
IN UNITED STATES ORGANIZATIONS

Sec. 257. (a) No person may, except in accordance with this section, join or otherwise participate in any United States organization, or any other organization within the United States, on behalf of an entity of the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization.

(b) The head of an entity of the Intelligence Community or, ~~when essential for intelligence activities authorized by this Act,~~ his designee may <sup>on behalf of that entity</sup> authorize participation ~~in a United States organization when necessary to collect information under chapter 6 of this Act.~~ Such participation shall be confined to the collection of information as authorized by that chapter, and shall be conducted so as not to influence the lawful activities ~~in an~~ of the organization or its members. Within the United States which is composed primarily of foreign persons and is acting on behalf of a foreign power, such participation may be undertaken only on behalf of the Federal Bureau of Investigation.

(c) (d) The head of an entity of the Intelligence Community or his designee may authorize participation in a United States organization when such participation is essential for preparing the participant for assignment to an intelligence activity outside the United States. Such participation shall be conducted so as not to influence the lawful activities of the organization or its members.

(d) ~~The head of an entity or his designee may, when essential for intelligence activities authorized by this Act, authorize participation on behalf of that entity in an organization within the United States which is composed primarily of foreign persons and is acting on behalf of a foreign power.~~

(e) Nothing in this section shall be construed to prohibit any person employed by an ~~academic institution~~ <sup>organization</sup> from

(d) The head of an entity of the Intelligence Community or his designee may authorize participation in a United States organization when necessary to collect information under part B of this Act. Such participation shall be confined to the collection of information as authorized by that part, and shall be conducted so as not to influence the lawful activities of the organization or its members. Within the United States, such participation may be undertaken to collect information on behalf of the Federal Bureau of Investigation.

recommending or assisting in the recruitment of employees or sources of information or operational assistance on behalf of any entity of the Intelligence Community, [provided that the appropriate officials of ~~the~~ <sup>any such United States academic</sup> institution are notified that such activities are taking place, though the individuals conducting them need not be identified.]

RESTRICTIONS ON THE PROVISION OF  
ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES

Sec. 258. (a) Except as otherwise provided in this Act, no entity of the Intelligence Community other than the entities of the Departments of Justice and Treasury having law enforcement responsibilities may provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to state or local police organizations of the United States, or participate in or fund any law enforcement activity within the United States.

(b) Any entity of the Intelligence Community may--

(1) cooperate with appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of such entity, *and conducting background checks on applicants for employment;*

(2) participate in law enforcement activities, in accordance with this Act, to protect against espionage or any other unlawful clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination; or

(3) with the prior approval of a designated official of such entity, provide specialized equipment, technical knowledge, or, pursuant to procedures approved by the Attorney General, the assistance of expert personnel for use by any federal law enforcement agency or, when lives are endangered, to support local law enforcement agencies.

(c) The Attorney General or his designee shall be notified in a timely manner of such provision of equipment, knowledge or personnel, and shall review at least annually all provision of expert personnel to determine whether the procedures approved by the Attorney General have been followed.

RESTRICTIONS ON THE USE OF HUMAN SUBJECTS  
FOR EXPERIMENTATION

Sec. 259. No entity of the Intelligence Community shall sponsor, contract for, or conduct research on any human subject except in accordance with the guidelines on research involving human subjects issued by the Department of Health, Education and Welfare. The requirements for informed consent and the documentation relating to such consent shall be the same as provided in such guidelines of the Department of Health, Education and Welfare. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research shall have jurisdiction to monitor, under appropriate security arrangements, compliance with such guidelines by the various entities of the Intelligence Community which conduct research on any human subject; and shall advise the Director of National Intelligence and the Secretary of Health, Education and Welfare on any changes in such guidelines as may be necessary to protect fully the health and safety of such human subjects.

PART *g*

OTHER PROVISIONS

PROTECTION OF PRIVILEGED COMMUNICATIONS

Sec. 261. No otherwise privileged communication shall lose its privileged character as a consequence of this Act; and the Attorney General shall promulgate regulations to protect privileged communications against intelligence activities of the United States.

ADMINISTRATIVE RULEMAKING

Sec. 262. The Director of National Intelligence and the heads of the entities of the Intelligence Community shall, in consultation with and subject to the approval of the Attorney General, formulate regulations necessary to carry out the provisions of this title, ~~and submit such proposed regulations to the~~  
Permanent Select Committee on Intelligence of the House and the  
Select Committee on Intelligence of the Senate No such regulation, or amendment thereto, shall become effective until 60 days after the date on which such regulation or amendment, as the case may be, has been submitted to ~~such committees~~ the

~~EFFECTIVE DATE~~

~~Sec. 263. This Title shall become effective the first  
day of the third ciendar month following the month in which  
it is enacted.~~

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WORKING DRAFT: NOT FOR PUBLICATION OR DISSEMINATION

## NATIONAL INTELLIGENCE REORGANIZATION AND REFORM ACT OF 1978

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SHORT TITLE

Sec. 201. This title may be cited as the "Intelligence Activities and Individual Rights Act of 1978".

STATEMENT OF FINDINGS

Sec. 202. The Congress hereby finds that--

(1) intelligence activities of the United States have at times violated rights guaranteed or protected by the Constitution or laws of the United States;

(2) United States intelligence agencies have in the past collected unnecessary information about the political activities and personal lives of Americans and have employed surreptitious intelligence collection techniques without adequate standards limiting their use to the collection of information serving legitimate governmental interests;

(3) United States intelligence agencies have in the past engaged in covert operations within the United States to disrupt and discredit lawful political activities of individuals and domestic groups, using dangerous and degrading tactics which are abhorrent in a free and decent society, and have collected and disseminated intelligence in order to serve purely political interests of an administration or an intelligence agency and to influence social policy and political action within the United States;

(4) such illegal or improper intelligence activities undermine the foundations of a free society by depriving persons of liberty without due process of law, by inhibiting the exercise of freedom of speech, press, assembly, and association, by invading the privacy of individuals, and by impairing the integrity of free institutions;

(5) properly limited and controlled intelligence activities conducted within the United States or directed against United States persons abroad are necessary to protect against espionage or other clandestine intelligence activities harmful to the security of the United States, sabotage, international terrorist activities, or assassinations, and to collect information concerning foreign powers, organizations, or persons essential to the

formulation and conduct of the national security and foreign policy of the United States;

(6) legislation is needed to allocate clearly the responsibility for directing, supervising, and overseeing all intelligence activities conducted within the United States or directed against United States persons abroad, to impose legal requirements for reporting and obtaining prior approval for such activities, to prohibit certain activities, and to establish adequate legal safeguards to ensure adherence to such standards and procedures.

STATEMENT OF PURPOSES

Sec. 203. It is the purpose of this Act--

(1) to provide statutory authorization and guidance for the performance of intelligence activities necessary for the conduct of the foreign affairs and the protection of the national security of the United States;

(2) to amend and supplement the provisions of the National Security Act of 1947 governing intelligence activities;

(3) to confer upon the Attorney General the authority necessary for ensuring that intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States;

(4) to safeguard rights to freedom of expression, privacy, and due process of law protected by the Constitution or laws of the United States by the establishment of comprehensive statutory standards and procedures which shall provide the exclusive legal authority for all intelligence activities of the United States that may adversely affect the life, liberty, or property of expression of any United States person or any other person who is in the United States;

(5) to provide fair and effective remedies for any person whose rights under the Constitution or laws of the United States are infringed upon or violated by any entity of the Intelligence Community, by its employees, or by any person, organization, or agency of government acting for or on behalf of any entity of the Intelligence Community.

## DEFINITIONS

Sec. 204. (a) Except as otherwise provided in this section, the definitions in title I, the National Intelligence Act of 1977, shall apply to this title.

(b) As used in this title--

(1) The term "Attorney General" means the Attorney General of the United States or the Acting Attorney General.

(2) The term "clandestine intelligence activity" means any activity of an intelligence service or network of a foreign power which is planned and executed in a manner intended to conceal the nature or fact of such activity or the role of such foreign power or organization, and any activity carried out in support of such activity.

(3) The term "confidential interview" means any interview of any person in which the interviewee is requested or directed not to disclose the fact of the interview to the person concerning whom the interviewee is questioned.

(4) The term "confidential records" means any information stored in a retrievable manner which is not generally available to any private person.

(5) The term "consensual electronic surveillance" means any acquisition of a nonpublic communication by electronic means, with the consent of one but not all persons who are parties to, or, in the case of a nonelectronic communication, visibly present at the communication.

(6) The term "covert human source" means any person who is directed or requested by any entity of the Intelligence Community to collect specific information or material for such entity in a manner intended to conceal the nature of such information or material or the fact of such collection, including any person who voluntarily agrees to perform such activity without compensation.

(7) The term "electronic or signals intelligence activities" means the acquisition of information by the interception of wire communications, radio communications, or oral communications without the knowledge of all parties, or the installation or use of a device for monitoring to acquire information without the knowledge of the persons or activities monitored, but not including "electronic surveillance" as defined in chapter 120 of title 18, United States Code (as set out in S. 1566).

(8) The term "electronic surveillance" shall have the same meaning as is found in Chapter 120 of title 18, United States Code (as set out in S. 1566).

(9) The term "foreign organization" means--

(A) any unincorporated association organized outside the United States and not substantially composed of United States citizens or aliens lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act; or

(B) any corporation incorporated outside the United States.

(10) The term "foreign person" means any foreign power, any foreign organization, or any individual who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(11) The term "foreign power" means--

(A) any government of a foreign country, as defined in the Foreign Agents Registration Act of 1938, as amended;

(B) any corporation incorporated in the United States which is directed and controlled by any government of a foreign country or any governments of foreign countries.

(12) The term "mail cover" means any systematic and deliberate inspection of the exterior of mail to or from a particular person before such mail is delivered to the person to whom it is addressed;

(13) The term "physical surveillance" means any systematic and deliberate observation of a person by any means on a continuing basis, or acquisition of a nonpublic oral communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance.

(14) The term "pretext interview" means any interview of any person in which the true purpose of the interview or the affiliation of the interviewer with the Government is concealed from the interviewee.

(15) The term "United States," when used to describe a geographic location, means the United States and its territories.

(16) The term "United States organization" means any unincorporated association or corporation which is a United States person.

(17) The term "United States person" means--

(A) any citizen of the United States;

(B) any alien lawfully admitted for permanent residence; provided that such alien may be presumed to have lost permanent resident status after one year of continuous residence outside the United States until information suggesting an intent to return to the United States as a permanent resident alien is obtained;

(C) any unincorporated association organized in the United States or substantially composed of United States citizens or aliens lawfully admitted for permanent residence; provided that unincorporated associations outside the United States may be presumed not to be United States persons until information suggesting the contrary is obtained; or

(D) any corporation incorporated in the United States which is not directed and controlled by any government of a foreign country or by any governments of foreign countries.

(18) The term "unlawful activity" means an activity which involves or may involve a violation of the laws of the United States, any state or subdivision thereof, or in the case of an activity conducted outside the United States, which would involve a violation of such laws if conducted within the United States.



RESPONSIBILITIES OF THE ATTORNEY GENERAL

Sec. 205. (a) It shall be the responsibility of the Attorney General, in cooperation with the National Security Council, the Director of National Intelligence, the Intelligence Oversight Board, and the heads of the entities of the Intelligence Community, to insure that all intelligence activities of the United States are conducted in conformity with the Constitution and laws of the United States, and that such activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States. In discharging such responsibility, the Attorney General shall--

(1) approve or disapprove all regulations or procedures proposed by the Director of National Intelligence or by the heads of the entities of the Intelligence Community to implement any provision of this title;

(2) evaluate on a continuing basis any laws, Executive orders, Presidential directives or Presidential memoranda, regulations or procedures relating to intelligence activities to determine whether they adequately protect the privacy or freedom of United States persons, the integrity of United States organizations, or the rights of any other persons who are in the United States, and make such changes or, where appropriate, recommendations for changes therein as he may deem necessary to achieve such purposes;

(3) keep the National security Council, the Intelligence Oversight Board, the Director of National Intelligence, the heads of the entities of the Intelligence Community, and the appropriate committees of the Congress informed regarding legal opinions of the Department of Justice affecting the operations of the Intelligence Community;

(4) supervise and control the intelligence activities of the Federal Bureau of Investigation, as provided in title VI of this Act;

(5) review and, where appropriate, approve intelligence activities that may significantly affect the privacy or freedom of United States persons, the integrity of United States organizations, or the rights of any other person who is in the United States, in accordance with the provisions of this title;

(6) submit a written report semiannually to the appropriate committee of each house of the Congress having jurisdiction over foreign intelligence activities on those intelligence activities which require approval of the Attorney General under this title, and submit an annual written report to such committees on those intelligence activities which require review by the Attorney General under this title;

(7) receive and consider information regarding any intelligence activity that constitutes or is likely to constitute a violation of any law, Executive order, Presidential directive or Presidential memorandum, and any evidence of possible violation of Federal law by any officer or employee of any entity of the Intelligence Community;

(8) submit a full report, in a timely manner, to the President, the Intelligence Oversight Board, the Director of National Intelligence, and the head of the entity concerned on any determinations made by the Attorney General with respect to the information described in paragraph (8);

(9) submit a full report in a timely manner, to the appropriate committees of the Congress on any intelligence activity by any entity of the Intelligence Community determined by the Attorney General to be a violation of any law, Executive order, Presidential directive, or Presidential memorandum and any violation of Federal law by any employee of any entity of the Intelligence Community;

(10) take all steps necessary to insure that no employee of any entity of the Intelligence Community who communicates information described in paragraph (8) directly to the Attorney General, to the Intelligence Oversight

Board, or to any committee of the Congress having jurisdiction over matters relating to national intelligence activities shall be subject, on account of the reporting of such information, to discipline through dismissal, demotion, transfer, suspension, reassignment, reprimand, admonishment, reduction-in-force, or other adverse personnel action, or the threat thereof;

(11) insure that he will receive, in a timely fashion, any information acquired or maintained by any entity of the Intelligence Community relating to his full and effective discharge of his responsibilities under this title;

(12) transmit annually to the appropriate committees of the Congress a written certification that, to the best of his knowledge, the intelligence activities of the United States during the previous year have been conducted so as not to violate any right guaranteed or protected by the Constitution or laws of the United States except for those activities he has reason to believe were not so conducted and identifies such activities for such committees.

(b) (1) To assist the Attorney General in the discharge of his responsibilities under this title, he shall designate--

(A) an Assistant Attorney General who shall perform any duty assigned to the Attorney General's designee under this title, provided that such designation is made prior to the appointment of such Assistant Attorney General by the President, by and with the advice and consent of the Senate; and

(B) an internal inspection officer having jurisdiction over the intelligence activities of any entity of the Department of Justice.

(2) The internal inspection officer designated by the Attorney General under paragraph (1)(B) above shall have the responsibility and authority to--

(A) review information or allegations reported to him regarding any intelligence activity of any entity of the Department of Justice which may violate any law, Executive order, Presidential directive, Presidential memorandum, or standards of professional conduct, to determine whether such information or allegations should be referred to another official within the Department for investigation and disposition;

(B) upon request of the Attorney General, the Deputy Attorney General, or the Associate Attorney General, investigate any matter referred to him by the Attorney General, the Deputy Attorney General, or the Associate Attorney General;

(C) submit in writing to the Attorney General, the Deputy Attorney General, or the Associate Attorney General, whichever is appropriate--

(i) an immediate report on any significant matter referred to another official under paragraph (2)(A):

(ii) a monthly report summarizing all matters referred to another official under paragraph (2)(A);

(iii) an immediate report on the investigation or disposition of any matter referred to another official under paragraph (2)(A), if the internal inspection officer finds that a significant question exists as to the adequacy of such investigation or disposition;

(iv) an annual report reviewing and evaluating the activities of any other officers within the Department of Justice who perform duties assigned to the Inspector General of each entity of the Intelligence Community by section 119(a)(5) of title I of this Act;

(v) any suggestions for change in the policies or procedures for the conduct of intelligence activities by any entity of the Department of Justice;

(D) perform such duties assigned to the Inspector General of each entity of the Intelligence Community by section 119(a)(5) of title I of this Act as are assigned to him by the Attorney General;

(E) assume any other responsibilities assigned to him by the Attorney General.

(3) The Director of National Intelligence and the heads of the entities of the Intelligence Community shall make available to the Attorney General or his designee any information or assistance the Attorney General or his designee finds necessary to carry out his functions under this title. The entities of the Department of Justice engaged in intelligence activities shall make available to the internal inspection officer designated by the Attorney General under paragraph (1)(B) above any information or assistance such officer finds necessary to carry out his responsibilities under this section.

(c) (1) The Attorney General is authorized to establish such committees or boards, composed of officers or employees of the United States, as may be necessary to carry out effectively the provisions of this title.

(2) The Attorney General is also authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this title. The provisions of the Federal Advisory Committee Act (66 Stat. 770) shall apply with respect to any advisory committee established by the Attorney General except that the Attorney General may, with the approval of the President, waive the application of any or all of the provisions of such Act when the Attorney General deems such action necessary to the successful performance of his functions under this title or to protect the security of the

activities conducted under this title. Any waiver exercised by the Attorney General under this subsection shall be reported to the committees of the Congress having jurisdiction over matters relating to national intelligence activities and the names of all persons appointed to serve on such advisory committee shall be reported to such committees of the Congress.

COLLECTION OF INFORMATION CONCERNING UNITED STATES  
PERSONS FOR FOREIGN COUNTERINTELLIGENCE OR  
COUNTERTERRORISM PURPOSES

Sec. 206. (a) No information concerning any United States person may be collected for intelligence purposes except in accordance with this section.

(b) (1) Information concerning any United States person may be collected for foreign counterintelligence or foreign counterterrorism purposes if such information is publicly available, or if such person voluntarily consents to such collection.

(2) The consent of any United States person who is the subject of collection of information for foreign counterintelligence or foreign counterterrorism purposes shall be requested whenever making such a request would not frustrate the purposes of such collection.

(c) Information concerning any United States person may be intentionally collected for foreign counterintelligence or counterterrorism purposes if such person--

(1) is reasonably believed to be engaged in espionage or any other unlawful clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination, or to be conspiring with or aiding and abetting any person engaged in such activity;

(2) resides outside the United States and is employed in an official capacity by any foreign power or organization reasonably believed to be engaged in espionage or any other clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination;

(3) is reasonably believed to be the object of a recruitment effort by the intelligence service of a foreign power or by any person or organization engaging in any international terrorist activity; or

(4) is reasonably believed to be engaged in activity, or to possess information or property, which is the target of any international terrorist activity or is the

target of intelligence activity by the intelligence service of a foreign power.

(d) (1) The intentional collection of information pursuant to subsection (c)(1) or (2) shall be limited to such information as relates to and is necessary to protect against espionage or any other unlawful clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination.

(2) The intentional collection of information pursuant to subsection (c)(3) or (4) shall be limited to such information as is necessary to identify the United States person who is the subject of the inquiry, and to establish the nature of the interest of the foreign power, person, or organization, as the case may be, in such United States person.

(e) Information may also be intentionally collected concerning any United States person--

(1) who has contact with a foreign person who is the subject of a foreign counterintelligence inquiry, but only to the extent necessary to identify such United States person and determine whether such United States person has or had access to information whose disclosure to a foreign power would be harmful to the national security; or

(2) when such person is reasonably believed to be a potential source of operational assistance or information in the conduct of foreign counterintelligence or counterterrorist activities of the United States, but only to the extent necessary to determine such person's suitability as such a source.

(f) (1) A properly designated official of an entity of the Intelligence Community, when information sought under the authority of this section is not publicly available, may authorize in writing the use of the following techniques of investigation to collect such information--

(A) confidential interviews, provided that a confidential interview with a person who has



recommended any person as a potential source may be conducted without such prior written authorization;

(B) pretext interviews;

(C) requests for information from the confidential records of any federal, state, or local law enforcement agency;

(D) requests for information from the confidential records of any entity of the Intelligence Community; and

(E) solely to the extent necessary to identify the subject of the investigation--

(i) physical surveillance; or

(ii) requests for information from confidential records pertaining to the credit status of the subject of the investigation.

(2) A properly designated official of an entity of the Intelligence Community, when information sought under the authority of subsection (c) is not publicly available and can not be obtained by use of techniques authorized under paragraph (2), may authorize in writing the use of the following techniques of investigation to collect such information--

(A) physical surveillance;

(B) requests for information from the records of any foreign government; and

(C) requests for information from the confidential records of any private institution or of any federal, state, or local agency other than records pertaining to education, medical care, insurance, taxes, credit status, other financial matters, or telecommunications services.

(3) The Attorney General or his designee, or, when the subject of the inquiry is a member of the armed forces, the Secretary of the branch of the armed forces of which such subject is a member, may, when information sought under the authority of subsection (c) is not publicly available

and cannot be obtained by use of techniques authorized under paragraphs (1) or (2), authorize in writing an official of an entity of the Intelligence Community to use such of the following techniques of investigation as that official determines are necessary to obtain the information sought--

(A) requests for information from the confidential records of any federal, state, or local tax agency in accordance with any law applicable to the disclosure of such information;

(B) requests for information pertaining to education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal, state, or local agency, in accordance with any law applicable to the disclosure of such information;

(C) the use of covert human sources;

(D) consensual electronic surveillance;

(E) mail covers in accordance with any law applicable to mail in United States postal channels;

(F) electronic surveillance, electronic or signals intelligence activities, physical search, and mail opening in accordance with the provisions of section \_\_\_\_ of this Act.

(g) (1) Collection of information under the authority of subsections (c) or (e) may only be initiated upon the written approval of a properly designated official of an entity of the Intelligence Community. Such approval shall be valid for no more than ninety days.

(2) Approval for the collection of information under the authority of subsection (c) may be renewed by any properly designated official of an entity of the Intelligence Community. Such renewed approval shall be in writing, shall include a statement of the reasons for such approval, and shall be valid for no more than an additional ninety days.

(3) The Attorney General or his designee shall be notified in a timely manner of each approval or renewal of approval to collect information under paragraphs (1) or (2).

(4) Collection of information under the authority of subsection (c) may be continued for periods of 180 days beyond the 180 days which may be approved under paragraphs (1) and (2) if the Attorney General or his designee, or, when the subject of the collection is a member of the armed services, the Secretary of the branch of the armed services of which such subject is a member, finds in writing that such collection is necessary for foreign counterintelligence or foreign counterterrorism purposes. The following factors shall be considered in making such a finding--

- (A) the magnitude of the threatened harm;
- (B) the likelihood that it will occur;
- (C) the immediacy of the threat;
- (D) the credibility and specificity of the information upon which the finding is made;
- (E) the danger to privacy and freedom posed by the continuation of such collection and by the techniques of investigation to be used.

(5) Collection of information under the authority of this section shall in any event terminate immediately upon the fulfillment of the purposes of such collection.

(h) The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, promulgate rules and regulations--

(1) designating those officials of such entity who are empowered to--

- (A) initiate collection of information under the authority of this section;
- (B) authorize in accordance with subsection (g)(2) the continuation of such collection beyond ninety days from the date such collection was initiated; and

(C) authorize the use of particular techniques of investigation in accordance with subsection (f).

(2) setting out specific circumstances in which the initiation or continuation of collection of information under the authority of this section would be justified and in which the use of a particular technique would be appropriate;

(3) prescribing procedures by which the incidental collection of information concerning any United States person who is not the subject of an authorized inquiry may be minimized;

(4) prescribing requirements for the maintenance of written records of the use of particular techniques.

(i) (1) The Attorney General or his designee, or, when the subject of an inquiry is a member of the armed services, the General Counsel of the Department of Defense, shall at least annually review all inquiries conducted under this section to determine whether such inquiries have been conducted in accordance with the requirements of this title and of any rule, regulation, or procedure promulgated or approved by the Attorney General pursuant to this title.

(2) The General Counsel of the Department of Defense shall submit a written annual report to the Attorney General and to the appropriate committee of the House and Senate on foreign counterintelligence and counterterrorism activities conducted under the authority of this section by the Department of Defense or any of the components of that Department during the preceding year.

(3) The Attorney General shall submit a written annual report to the appropriate committee of the House and Senate on foreign counterintelligence and counterterrorism activities conducted under the authority of this section.

COLLECTION OF INFORMATION CONCERNING UNITED STATES  
PERSONS FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 207. (a) No information concerning any United States person may be collected for foreign intelligence purposes except in accordance with this section.

(b) (1) Information concerning any United States person may be collected for foreign intelligence purposes if such information is publicly available, or if such person voluntarily consents to such collection.

(2) The consent of any United States person who is the subject of collection of information for foreign intelligence purposes shall be requested whenever making such a request would not frustrate the purposes of such collection.

(c) Information concerning any United States person may be intentionally collected for foreign intelligence purposes if--

(1) such person is reasonably believed to be engaged in espionage, or any other clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination, or to be conspiring with or aiding and abetting any person engaged in such activities;

(2) the information sought to be collected is determined by a properly designated official of an entity of the Intelligence Community to be significant foreign intelligence; and

(3) such collection is carried out in accordance with the provisions of subsections (f)-(i) of section 206 of this title.

(d) Information concerning any United States person may also be intentionally collected for foreign intelligence purposes if such United States person--

(1) is an officer or employee of a foreign power residing abroad, information about whose official duties or activities would constitute significant foreign intelligence;

(2) is a fugitive from justice, information about whose activities abroad would constitute significant foreign intelligence;

(3) is a person abroad concerning whom the Department of State has requested information for support of its consular responsibilities relating to the welfare of such person;

(4) is a corporation or commercial organization, information concerning whose commercial activities would constitute significant foreign intelligence.

(e) Information concerning any United States person who is reasonably believed to be a potential source of operational assistance or information and necessary to determine such person's suitability as such a source may be intentionally collected for foreign intelligence purposes, provided that such collection is limited to a confidential interview of any person who has recommended the subject as a potential source and a written request for information from the confidential records of any entity of the Intelligence Community.

(f) Information concerning any United States person may be intentionally collected in the course of a confidential interview conducted for the purpose of collecting foreign intelligence about any foreign power, organization, or person, if such information is essential for understanding or assessing the importance of the information sought concerning such foreign power, organization, or person.

(g) The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, promulgate rules and regulations--

(1) designating those officials of such entity who are empowered to--

(A) initiate the collection of information under the authority of subsections (c) - (e);

(B) authorize the continuation of collection under subsection (c) beyond ninety days from the date such collection was initiated; and

(C) authorize the use of particular techniques of investigation for the purpose of collection under subsection (c) and ensure that the least intrusive techniques necessary to collect such information are used.

(2) setting out specific circumstances in which the initiation or continuation of collection of information under the authority of this section would be justified and in which the use of a particular technique would be appropriate; and

(3) prescribing requirements for the maintenance of written records of the use of particular techniques.

(h) No entity of the Intelligence Community may conduct any foreign intelligence collection activity that is reasonably expected to result in the incidental acquisition of a substantial volume of nonpublicly available information concerning United States persons, without their consent, except in accordance with procedures approved by the Attorney General reasonably designed to minimize the incidental acquisition of such information concerning a United States person who is not the subject of an authorized foreign intelligence inquiry.

(i) No entity of the Intelligence Community may use the following techniques of investigation to collect information under subsection (c) unless the Attorney General or his designee grants express written approval for the use of such techniques in accordance with any law applicable to the use of such technique--

(1) physical surveillance within the United States;

(2) requests for information from the confidential records of any federal, state, or local tax agency;

(3) requests for information from the confidential records of any private institution within the United States;

(4) the development of new covert human sources within the United States;

(5) consensual electronic surveillance within the United States;

(6) mail covers within the United States;

(7) electronic surveillance, electronic or signals intelligence activities, physical search, or mail opening, provided that such approval may be granted only in accordance with the provisions of section \_\_\_\_ of this Act;

(8) any other technique designated by the Attorney General or by law as requiring such approval.

(j) The Attorney General or his designee shall review all inquiries carried out under subsection (c) at least annually and such inquiries which were initiated more than 180 days prior to such review shall terminate unless the Attorney General or his designee grants express written approval for their continuation. The Attorney General or his designee shall, at least annually, review representative inquiries carried out under subsections (d) and (e). In conducting reviews under this subsection, the Attorney General or his designee shall determine whether such inquiries have been conducted in accordance with the requirements of this title and of any rule, regulation, or procedure promulgated or approved by the Attorney General pursuant to this title.



COLLECTION OF INTELLIGENCE CONCERNING  
FOREIGN PERSONS WITHIN THE UNITED STATES

Sec. 206. (a) No information concerning any foreign person who is within the United States may be collected for any foreign intelligence, foreign counterintelligence, or foreign counterterrorism purpose unless--

(1) such person satisfies the standards of sections 206 and 207 of this title for the initiation of collection of information concerning United States persons;

(2) such person is an officer or employee of any foreign power or organization, information about whose activities would constitute foreign intelligence;

(3) there is a reasonable likelihood that such person may engage in espionage or any other clandestine intelligence activity, sabotage, or any international terrorist activity, or may conspire with or aid and abet any person engaged in such activities.

(b) The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, promulgate regulations--

(1) designating those officials of such entity who are empowered to initiate collection of information under the authority of this section and providing guidance as to when the initiation of such collection would be appropriate;

(2) specifying the level of approval required for the use of any particular technique of investigation and providing as to when the use of such technique would be appropriate;

(3) establishing procedures to guarantee that whenever information is collected under the authority of this section only the least intrusive techniques of collection necessary to obtain such information shall be used, and that such collection shall terminate as soon as practicable.

(c) Notwithstanding any other law, the following techniques of investigation may be used to collect information concerning

any foreign person within the United States with the approval of the Attorney General or his designee--

(1) requests for information from the confidential records of any federal tax agency;

(2) requests for information pertaining to education, medical care, insurance, telecommunications services, credit status, or other financial matters from the confidential records of any private institution or any federal agency; and

(3) mail covers.

(d) Electronic surveillance, physical search, or mail opening may be used to collect information concerning any foreign person within the United States only in accordance with the provisions of section \_\_\_\_ of this Act.

PROTECTION OF THE SECURITY OF INSTALLATIONS,  
PERSONNEL, COMMUNICATIONS, AND SOURCES AND METHODS

Sec. 209. (a) No information concerning any United States person may be collected for purposes of protecting the security of installations, personnel, communications, or sources and methods of any entity of the Intelligence Community except in accordance with this section.

(b) (1) Information concerning any United States person may be collected for such purposes if such information is publicly available, or if such person voluntarily consents to such collection;

(2) The consent of any United States person who is the subject of collection of information for such purposes shall be requested whenever making such a request would not frustrate the purposes of such collection.

(c) Each entity of the Intelligence Community, in order to determine whether any person within, on the grounds of, or in the immediate vicinity of any installation of that entity should, in accordance with any rule or regulation applicable to that installation, be excluded from that installation or from the immediate vicinity of that installation, may conduct physical surveillance of any such person and may request information from the records of any other entity of the Intelligence Community or from the records of any federal, state, or local law enforcement agency.

(d) Each entity of the Intelligence Community may collect information concerning any employee or contractor of that entity to determine whether such employee or contractor has violated any rule or regulation of that entity pertaining to the security of that entity's installations, personnel, communications, or sources and methods. Such collection may include the following techniques of investigation only when the Attorney General or his designee, in accordance with any law applicable to such technique, grants express written approval based upon a finding that the use of such technique is necessary to collect the

information sought and that other less intrusive techniques are inadequate--

(1) mail covers within the United States;

(2) requests for the retrieval of information already maintained in the confidential tax records of any federal, state, or local government agency;

(3) requests for the retrieval of information already maintained in confidential records of any private institution within the United States relating to the provision of financial services, medical care, insurance, or telecommunications services (except checks of credit records for purposes of identification).

(e) Each entity of the Intelligence Community may collect information concerning any person who is reasonably believed to be engaging in activities which pose a clear threat to the physical safety of any installation or of any personnel of that entity. Within the United States, such collection--

(1) may be initiated only upon the written approval of a properly designated official of such entity, which approval shall be valid for no more than ninety days but may be renewed in writing for an additional ninety days;

(2) shall be limited to the following collection techniques--

(A) physical surveillance within, on the grounds of, or in the immediate vicinity of any installation of such entity;

(B) requests for information from the records of any federal, state, or local law enforcement agency or of any other entity of the Intelligence Community;

(C) confidential or pretext interviews.

(3) shall be limited to such information as is necessary to determine whether the matter should be referred to an appropriate law enforcement agency, at which point such collection shall be terminated.

(f) The head of each entity of the Intelligence Community shall, subject to the approval of the Attorney General, and

consistent with the provisions of this section, promulgate regulations--

(1) designating those officials of such entity who are empowered to initiate collection of information under the authority of this section and providing guidance as to when the initiation of such collection would be appropriate;

(2) specifying the level of approval required for the use of any particular technique of investigation and providing guidance as to when the use of that technique would be appropriate;

(3) establishing procedures to guarantee that whenever information is collected under the authority of this section only the least intrusive techniques of collection necessary to obtain that information shall be used, and that such collection shall terminate as soon as practicable.

(g) Any intelligence, counterintelligence, security, or law enforcement entity of the military services which collects information concerning any United States person who is not a member of the military services or an employee or contractor of the Department of Defense under the authority of any law, executive order, rule, or regulation other than this Act, may do so only in accordance with this section, except that where such collection is necessary to acquire information relating to a member of the military services or an employee or contractor of the Department, the Secretary of Defense or his designee may authorize such collection in accordance with regulations promulgated by the Secretary of Defense, which satisfy the provisions of subsection (f) (1)-(3).

(h) The head of any entity of the Intelligence Community designated by the Attorney General may appoint and assign security officers to police the installations and grounds of that entity, where such security officers shall have the same powers as sheriffs and constables for the protection of persons and property, to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rule or regulation the

head of the entity of the Intelligence Community concerned may promulgate for the protection of such installations and grounds. The jurisdiction and police powers of such security officers shall not, however, extend to the service of civil process.

(i) The head of any entity of the Intelligence Community designated by the Attorney General may authorize employees of that entity to carry firearms within the United States for courier protection purposes, for the protection of the head of the entity and such other officials of the entity as the head of the entity may designate, and for the protection of any defector from any foreign country.

ELECTRONIC SURVEILLANCE, PHYSICAL SEARCH, AND MAIL OPENING

Sec. 210. (a) No entity of the Intelligence Community may conduct electronic surveillance as defined in chapter 119 or 120 of title 18, United States Code, unless authorized to do so in accordance with the provisions of such chapter.

(b) No entity of the Intelligence Community may conduct electronic or signals intelligence activities, not targeted against a United States person, for foreign intelligence purposes unless information so obtained concerning United States persons is treated in accordance with minimization procedures, as defined in chapter 120 of title 18, United States Code, approved by the Attorney General and submitted to the appropriate committee of each house of Congress having jurisdiction over foreign intelligence activities.

(c) No entity of the Intelligence Community may intentionally attempt to acquire, directly or indirectly, information concerning a particular United States person or persons by means of electronic or signals intelligence activities, under circumstances in which such person has a reasonable expectation of privacy with respect to activities of the United States Government and a warrant would be required for law enforcement purposes within the United States, pursuant to this section. Applications for a court order for electronic or signals intelligence activities targeted against a United States person are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the special court having jurisdiction under section 2523 of chapter 120, title 18, United States Code, and a judge to whom an application is made shall grant an order, in conformity with section 2527 of chapter 120, title 18, United States Code, approving electronic or signals intelligence activities targeted against a United States person.

(c) Each application for an order approving electronic or signals intelligence activities under subsection (c) shall be made by a Federal officer in writing upon oath or affirmation to

a judge of the special court having jurisdiction under section 2523 of chapter 120, title 18, United States Code. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this section. It shall include the following information--

- (1) the identity of the Federal officer making the application;
  - (2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;
  - (3) the identity or a description of the target of the electronic or signals intelligence activities;
  - (4) a statement of the facts and circumstances relied upon by the applicant to justify electronic or signals intelligence activities targeted against a United States person;
  - (5) a statement of the proposed minimization procedures;
  - (6) a statement whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the monitoring of another activity, and a statement whether physical entry may be involved;
  - (7) a statement of the period of time during which the activities are required to be conducted;
  - (8) a statement of the facts concerning all previous applications that have been made to any judge under this chapter involving the target specified in the application, and the action taken on each previous application;
  - (9) any other information or affidavit from any other officer required by the Attorney General in connection with the application or required by the judge as necessary for him to make findings required by this chapter.
- (e) Upon an application made pursuant to subsection (a) of this section, the judge shall enter an ex parte order as



requested or as modified approving electronic or signals intelligence under section (c) if he finds that--

(1) the President has authorized the Attorney General to approve applications for electronic or signals intelligence activities targeted against a United States person;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that--

(A) the United States person targeted is an agent of a foreign power as defined in section 2521(b)(2)(B) of chapter 120, title 18, United States Code;

(B) the United States person targeted is engaged in activities outside the United States which, if engaged in within the United States, would meet the definition of agent of a foreign power under section 2521(b)(2)(B) of chapter 120, title 18, United States Code;

(C) the United States person targeted is an officer or employee of a foreign power residing abroad, information about whose official duties or communications may constitute foreign intelligence information as defined in chapter 120, title 18, United States Code;

(D) the United States person targeted is a fugitive from justice, information about whose activities or communications abroad may constitute foreign intelligence information as defined in chapter 120, title 18, United States Code;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 2521(b)(6) of chapter 120, title 18, United States Code;

(5) the period of time during which the activities are required to be conducted is reasonable; and

(c) where the activities involve the installation of a device, either for monitoring or to intercept communications, such installation is reasonably necessary to effect the activities, and the nature, reliability, or timeliness of the foreign intelligence information sought cannot reasonably be duplicated by other means of collection.

(f) An order approving electronic or signals intelligence activities targeted against a United States person under this chapter shall--

(1) specify the identity or a description of the target of the activities;

(2) specify whether the activities involve acquisition of information from a wire communication, from a radio communication, from an oral communication, or from the monitoring of another activity, and whether physical entry may be involved;

(3) specify the period of time during which the activities are authorized;

(4) where appropriate, specify that the installation of a device is authorized; and

(5) direct that the minimization procedures be followed.

(g) Where the senior United States official of an agency authorized by the President or by statute to conduct electronic or signals intelligence activities in a foreign nation reasonably determines that an emergency situation exists such that foreign intelligence information might be lost before an order authorizing such activities targeted against a United States person could with due diligence be obtained, and the basis for the issuance of an order exists, he may authorize the conduct of such activities targeted against a United States person in that foreign nation for a period not to exceed 72 hours, provided that--

(1) an application for an order under subsection (a) of this section is filed within those 72 hours;

(2) the activities shall cease upon the denial of the order or 72 hours, whichever occurs first; and

(3) information obtained before the order is granted or denied shall, to the maximum extent feasible, be treated in accordance with the minimization procedures in the order or be destroyed and not disseminated if the order is denied.

(h) Nothing in this section shall be construed to require any agency or any Federal officer or employee to confirm or deny the existence of any cooperative relationship any agency may have with any foreign government or component thereof; to identify any particular such cooperative relationship; or to reveal in any manner whether or not any information used in support of an application for an order was obtained directly or indirectly from such a relationship, or whether or not any foreign government or component thereof may participate in any electronic or signals intelligence activity.

(d) No entity of the Intelligence Community may conduct unconsented physical searches within the United States or unconsented physical searches directed against United States persons abroad unless --

(1) such searches are conducted under the standards and procedures required by the Constitution or laws of the United States for law enforcement purposes; or

(2) such searches are authorized in an order issued under subsection (j) of this section.

(j) Applications for a court order to conduct unconsented physical searches within the United States or directed against a United States person abroad are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to Federal judges having jurisdiction under section 2423, title 18, United States Code, and a judge to whom an application to conduct unconsented physical searches within the United States or directed against a United States person abroad is made may grant an order approving unconsented physical searches within the United States or directed against a United States person abroad if --

(1) the purpose is to obtain foreign intelligence information, as defined in section 2521(b)(5) of chapter 120, title 16, United States Code;

(2) the target of the searches is a foreign power or an agent of a foreign power, as defined in section 2521(b)(1)-(2) of such chapter, or in the case of a United States person abroad, satisfies the requirements of this section for electronic or signals intelligence activities; and

(3) the searches are not conducted by means of surreptitious unauthorized entry of private premises, except in cases of imminent danger to life.

(k) No entity of the Intelligence Community may engage in the opening of mail in United States postal channels or opening of mail of a known United States person outside United States postal channels unless --

(1) such opening of mail is conducted under the standards and procedures required by the Constitution or laws of the United States for law enforcement purposes; and

(2) such opening of mail of a known United States person outside United States postal channels is authorized in an order issued under subsection (1) of this section.

(1) Applications for a court order to open the mail of a known United States person outside United States postal channels are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to Federal judges having jurisdiction under section 2423 of chapter 120, title 16, United States Code, and a judge to whom an application to open the mail of a known United States person outside United States postal channels is made may grant an order approving the opening of mail of a known United States person outside United States postal channels if --

(1) the purpose is to obtain foreign intelligence information, as defined in section 2521(b)(5) of chapter 120, title 16, United States Code; and

(2) the United States person is an agent of a foreign power, as defined in section 2521(b)(2)(C) of such chapter, or satisfies the requirements of this section for electronic or signals intelligence activities.

(m) An appropriate committee of each house of Congress having jurisdiction over foreign intelligence activities is authorized to examine any application made or order granted under the authority of this section.

MAINTENANCE, USE, AND DISSEMINATION OF  
INFORMATION CONCERNING UNITED STATES PERSONS

Sec. 211. (a) Information concerning any United States person which has been collected in the course of collection of information for any foreign intelligence, foreign counterintelligence, or foreign counterterrorism purpose may be maintained, used, and disseminated only in accordance with this section.

(b) Information concerning any United States person which has been collected in the course of collection of information for any foreign intelligence, foreign counterintelligence, or foreign counterterrorism purpose and which is not publicly available (hereinafter referred to as "private information"), may be maintained, used, or disseminated in a manner which identifies a United States person only if--

(1) intentional collection of information concerning such person has been approved pursuant to the provisions of this title and such information is relevant to the approved purposes of collection;

(2) it is reasonably believed that such information may provide a basis for initiating intentional collection of information pursuant to the provisions of this title;

(3) such information concerns a possible threat to the physical safety of any person;

(4) such information is reasonably believed to be evidence of a serious crime; or

(5) such information constitutes foreign intelligence, foreign counterintelligence, or foreign counterterrorism information and the United States person concerned is a United States organization or the incumbent of any office of the United States government having significant responsibility for the conduct of United States defense or foreign policy.

(c) Private information, however collected, may be disseminated within the collecting entity or within any department or agency subsequently receiving such information only

to those persons who require such information for the discharge of lawfully authorized governmental responsibilities.

(d) Private information which constitutes foreign intelligence may be disseminated outside the collecting agency in a manner which permits the identification of the United States person concerned if--

(1) the dissemination is to another department or agency having lawful access to foreign intelligence information and the identity of the United States person is essential to an understanding or assessment of the information's importance; or

(2) such information has been collected at the request of the department or agency to which it is being disseminated, and the request specifies in writing a lawful need for the identity of the United States person concerned.

(e) Private information which constitutes foreign counterintelligence or foreign counterterrorism information may be disseminated outside the collecting agency in a manner which permits the identification of the United States person concerned if--

(1) the dissemination is to another entity of the Intelligence Community having lawful foreign counterintelligence or foreign counterterrorism responsibilities, as the case may be, and having a direct interest in the particular information; or

(2) the dissemination is to a foreign government, if the information indicates that the United States person concerned may be engaged in international terrorist activities or in clandestine intelligence activities of direct interest to that foreign government, and if such dissemination is clearly in the interest of United States defense or foreign policy.

(f) Private information which relates to criminal activity may be disseminated outside the collecting agency in a manner which permits the identification of the United States person concerned if such United States person is apparently involved in

such criminal activity or is or may become the victim of that activity, and if--

(1) dissemination is to any federal, state, or local law enforcement agency having investigative jurisdiction over such criminal activity; or

(2) dissemination is to a foreign law enforcement agency having investigative jurisdiction over such criminal activity, and such dissemination is determined by the Attorney General or his designee, having due regard to the seriousness of the activity and any legal obligation imposed on the United States by any treaty or other international agreement, to be in the interests of the United States.

(g) Private information relating to the trustworthiness of any United States person who has or had access to classified information may, in a manner which permits the identification of that person, be disseminated to the department or agency which employs or employed that person, the department or agency which granted that person a security clearance or access to classified information, or to any department or agency having responsibility to investigate that person's trustworthiness.

(h) Private information relating to the suitability of any United States person as a source of assistance for any foreign intelligence, foreign counterintelligence, or foreign counterterrorism purpose may, in a manner which permits the identification of that person, be disseminated to any entity of the Intelligence Community requesting such information, if the request is made in writing and evidences a reasonable expectation by the requesting agency that such person will be used as such a source of assistance.

(i) (1) No entity of the Intelligence Community may, for the purpose of holding any United States person up to scorn, ridicule, or disgrace, or for the purpose of discrediting any such person because that person has criticized any official or agency of the government or any policy of the government, disseminate damaging or derogatory information concerning such person.



(2) No entity of the Intelligence Community may disseminate any false or misleading information concerning any United States person except--

(A) to a foreign intelligence service for an authorized counterintelligence purpose;

(B) to persons engaged in international terrorist activities for an authorized foreign counterterrorism purpose; or

(C) if the information concerns an officer or employee of an entity of the Intelligence Community and is necessary to the maintenance of properly authorized cover for such officer or employee or for an intelligence activity.

(j) In the event that any information is collected by any means or in any manner prohibited by this Act, such information may only be maintained, used, or disseminated for purposes of oversight, accountability, and redress.

(k) The head of each entity of the Intelligence Community, subject to the approval of the Attorney General, shall issue guidelines for the implementation of this section. Such guidelines shall specify the level of approval required for any dissemination of information concerning any United States person and shall provide guidance for the application of the provisions of this section to the particular activities of that entity. All such guidelines and any amendment thereto shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least sixty calendar days prior to the date such guidelines or amendment are to take effect.

(l) This section shall not be construed to prevent the maintenance, use, or dissemination of information about any United States person in a manner which would clearly not permit the identification of the United States person concerned.

(m) This section shall not be construed to affect in any manner any right of Congress or any committee or subcommittee thereof to access to information.

(n) Notwithstanding any other provision of this section, information collected by means of electronic surveillance as defined in chapter 120 of title 18, United States Code, shall be maintained, used, or disseminated only in accordance with the provisions of that chapter, and information collected by electronic or signals intelligence activities shall be maintained, used, or disseminated only in accordance with the provisions of title VII of this Act.

PROHIBITIONS AGAINST POLITICAL SURVEILLANCE AND  
CERTAIN COUNTERINTELLIGENCE AND SPECIAL ACTIVITIES

Sec. 212. (a) No foreign intelligence, foreign counterintelligence, or foreign counterterrorism activity may be directed against any United States person solely on the basis of such person's exercise of freedom of speech or of the press, or of the right peaceably to assemble, and no foreign intelligence, foreign counterintelligence, or foreign counterterrorism activity may be so conducted as to interfere with or disrupt the exercise by any United States person of those rights and freedoms.

(b) The following activities may not, for any foreign intelligence, foreign counterintelligence, or foreign counterterrorism purpose, be conducted within the United States or directed against any United States person--

- (1) the commission, instigation, or advocacy of any criminal act;
- (2) the provocation or inciting of violence;
- (3) the collection of information concerning any person solely for the purpose of harrassing such person;
- (4) the use of physical force, except in accordance with the law; or
- (5) unlawful detention for the purpose of either interrogation or intimidation.

(c) Any officer or employee of an entity of the Intelligence Community who has reason to believe that such entity is engaged or may engage in activities in violation of subsection (a) or (b) shall bring such activity to the attention of the General Counsel or Inspector General of the entity, or to the attention of the Attorney General or his designee, for review. If there is reasonable question as to whether such activity is or may be in violation of such subsections, the matter shall be referred immediately to the Attorney General or his designee who shall in a timely manner make a written finding as to whether a violation has occurred or will occur. Such finding shall be transmitted immediately to the head of the entity concerned; and where the Attorney General or his designee finds that a violation

has occurred or will occur, the head of the entity shall terminate such activity.

COOPERATION WITH FEDERAL, STATE, AND LOCAL  
LAW ENFORCEMENT AGENCIES

Sec. 213. (a) Except as otherwise authorized in this Act, no entity of the Intelligence Community other than entities of the Department of Justice and Department of Treasury having law enforcement responsibilities may provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to state or local police organizations of the United States, or participate in or fund any law enforcement activity within the United States.

(b) Any entity of the Intelligence Community may, with the prior written approval of the head of the entity, provide specialized equipment, technical knowledge, or, pursuant to procedures approved by the Attorney General, the assistance of expert personnel for use by any federal law enforcement agency, or when lives are endangered, in support of local law enforcement activities. The Attorney General or his designee shall be notified in a timely manner of the provision of such equipment, knowledge, or personnel; and shall review at least annually all such provisions to determine whether the requirements of this title and any procedures approved by the Attorney General pursuant to this title have been followed.

RESTRICTIONS ON COVERT HUMAN SOURCES  
AND UNDISCLOSED PARTICIPATION

Sec. 214. (a) In conducting foreign intelligence activities, no entity of the Intelligence Community may--

(1) place or recruit a covert human source within a United States organization in the United States for the purpose of preparing such human source for assignment to a foreign intelligence activity outside the United States, without the knowledge of appropriate senior officials of the organization, unless--

(A) the head of the entity or a designee approved by the Attorney General finds that such placement or recruitment is essential to achieving foreign intelligence purposes authorized by this Act, provided that the Attorney General shall review at least annually all such placement or recruitment;

(B) the placement or recruitment is made only for such time as is necessary to accomplish the purpose of preparing the human source for such assignment;

(C) the placement or recruitment is carried out in accordance with procedures approved by the Attorney General reasonably designed to prevent the misuse of participation of such human source in the activities of the organization and the misuse of any information obtained from such participation; and

(D) no information about any United States person acquired from such human source is disseminated outside the entity which places or recruits such human source except when such information pertains to a serious federal crime or a threat to the physical safety of any person, in which case the Attorney General or his designee shall be notified in a timely manner of such dissemination;

(2) use as a covert human source outside the United States any person whose travel to a foreign country is

sponsored and supported by a United States academic institution, without the knowledge of appropriate senior officials of such academic institution;

(3) use as a covert human source outside the United States any person whose travel to a foreign country is sponsored and supported by the United States as part of a United States government program designed to promote education or the arts, humanities, or cultural affairs;

(4) use as a covert human source, either within or outside the United States, any person who--

(A) follows a full-time religious vocation;

(B) is a journalist accredited to any media organization;

(C) regularly contributes material to any media organization;

(D) is regularly involved, directly or indirectly, in the editing of material for any media organization; or

(E) acts to set policy for, or provide direction to, any media organization;

(5) place, recruit, or use any covert human source within a United States academic institution for the purpose of collecting information concerning any person who is affiliated with such academic institution, unless the appropriate senior officials of such academic institution are informed that such activity is taking place, except that such information need not disclose the identity of such human source or foreign person.

(b) As used in this section, the term "covert human source" does not include--

(1) any person who has open and voluntary contact with an entity of the Intelligence Community;

(2) any person who is interviewed by an entity of the Intelligence Community and is requested or directed not to disclose the fact of the interview;

(3) any person who is requested or directed to recommend to an entity of the Intelligence Community the names of persons for consideration as potential employees or sources of operational assistance or information and who is requested or directed not to disclose the fact of such recommendation;

(4) any employee of an entity of the Intelligence Community who participates in the activities of a United States academic institution, without revealing his affiliation with such entity, for the purpose of collecting information otherwise available to any other person who participates in such activities.

(c) Except as provided in subsection (a), no employee or covert human source of any entity of the Intelligence Community may join, or otherwise participate in, any United States organization on behalf of such entity without disclosing his intelligence affiliation to appropriate officials of the organization unless the head of the entity or his designee grants prior written approval based upon a finding that--

(1) such undisclosed participation is essential for the conduct of a pretext interview or for the use of a covert human source in accordance with the provisions of this title;

(2) such undisclosed participation is essential for the Central Intelligence Agency to maintain such cover arrangements as may be authorized pursuant to the provisions of title IV of this Act; or

(3) such undisclosed participation is essential for any other purpose authorized by this Act.

(d) The head of each entity of the Intelligence Community concerned shall promulgate regulations, subject to the approval of the Attorney General--

(1) specifying those activities conducted on behalf of the entity for which approval may be granted pursuant to subsection (c);



(2) designating such official or officials of the entity who may grant such approval; and

(3) establishing procedures reasonably designed to ensure that any undisclosed participation is strictly limited in its nature, scope, and duration to that necessary for purposes authorized by this Act, and that no such participation is undertaken for the purpose of influencing the activity of the organization or its members.

(e) (1) The activities specified in regulations promulgated pursuant to subsection (d) (1) shall be set forth in a public document.

(2) The Attorney General shall at least annually review all undisclosed participation authorized under subsection (c) to determine whether approval has been granted and findings have been made in accordance with the requirements of subsection (c) and any regulations or procedures promulgated pursuant to subsection (d) or any other provision of this title.

## RESTRICTIONS ON CONTRACTING AND OPERATIONAL ASSISTANCE

Sec. 215. (a) No entity of the Intelligence Community may--

(1) enter into any contract or arrangement for the provision of goods or services with any private company or institution in the United States unless the entity sponsorship is known to the company or institution, except that the entity sponsorship may be concealed where the head of the entity makes a written finding that it is a normal business contract or arrangement and that concealment of entity sponsorship is necessary for authorized intelligence purposes to maintain essential cover or proprietary arrangements;

(2) enter into any contract or arrangement with any academic institution unless the entity sponsorship is known to appropriate senior officials of the academic institution and to senior project officials;

(3) use any United States person as a source of operational assistance in the conduct of intelligence activities unless--

(A) such person is informed of the nature of such assistance and of any reasonably anticipated risks to physical safety that such assistance may pose; and

(B) no pressure has been brought to bear upon such person that would significantly impair such person's ability to make a free and rational decision to provide such assistance;

(4) use as a source of operational assistance any alien lawfully admitted for permanent residence (as defined in section 101(a)(2) of the Immigration and Nationality Act) who has applied for United States citizenship, unless the head of the entity makes a written finding that such assistance is necessary for an intelligence activity of importance to the United States;

(5) use as a source of operational assistance any United States educational or private voluntary or nonprofit organization unless--

(A) the head of the entity makes a written finding that such assistance is necessary for an intelligence activity of importance to the United States;

(B) the appropriate senior officials of such organization give assurance that such assistance is not in violation of the charter, constitution, bylaws, or rules and regulations of such organization;

(C) such organization receives no covert financial assistance or support, directly or indirectly, from the United States Government for such operational assistance.

(6) use as a source of operational assistance in the conduct of foreign intelligence activities any person--

(A) who follows a full-time religious vocation;

(B) whose travel to a foreign country is sponsored and supported by the United States as part of a United States Government program designed to promote education or the arts, humanities, or cultural affairs;

(C) who is a journalist accredited to any media organization;

(D) who regularly contributes material to any media organization;

(E) who is regularly involved, directly or indirectly, in the editing of material of any media organization;

(F) who acts to set policy for, or provide direction to, any media organization; or

(G) who is reasonably believed to be a member of an organized crime syndicate engaged in any unlawful activity within the United States.

RESTRICTIONS ON THE USE OF HUMAN SUBJECTS  
FOR EXPERIMENTATION

Sec. 216. No entity of the Intelligence Community shall sponsor, contract for, or conduct research on any human subject except in accordance with the guidelines on research involving human subjects issued by the Department of Health, Education and Welfare. The requirements for informed consent and the documentation relating to such consent shall be the same as provided in such guidelines of the Department of Health, Education, and Welfare. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research shall have jurisdiction to monitor, under appropriate security arrangements, compliance with such guidelines by the various entities of the Intelligence Community which conduct research on any human subject; and shall advise the Director of National Intelligence and the Secretary of Health, Education, and Welfare on any changes in such guidelines as may be necessary to protect fully the health and safety of such human subjects.

PROTECTION OF PRIVILEGED COMMUNICATIONS

Sec. 217. No otherwise privileged communication shall lose its privileged character as a consequence of this Act; and the Attorney General shall promulgate regulations to protect privileged communications against intelligence activities of the United States.

PROHIBITION AGAINST INDIRECT ACTIVITIES

Sec. 218. (a) No entity of the Intelligence Community may request or otherwise encourage, directly or indirectly, any person, organization, or agency of government to undertake activities forbidden by this Act or by the Constitution or laws of the United States.

(b) In discharging his duty to formulate policies with respect to intelligence arrangements with foreign governments and be responsible for all relationships between the entities of the Intelligence Community and the foreign intelligence or internal security services of foreign governments, including all agreements, arrangements, and understandings governing such relationships, as provided in section 107(e)(19) of title I of this Act, the Director of National Intelligence shall, in coordination with the Attorney General, formulate such policies and maintain such relationships as will ensure compliance with this section.

ADMINISTRATIVE RULEMAKING

Sec. 219. The Director of National Intelligence and the heads of the entities of the Intelligence Community shall, in consultation with and subject to the approval of the Attorney General, formulate regulations necessary to carry out the provisions of this title and submit such proposed regulations to the appropriate committees of the Congress. No such regulation, or amendment thereto, shall become effective until 60 days after the date on which such regulation or amendment, as the case may be, has been submitted to such committees.

MAINTENANCE, USE, AND DISSEMINATION OF INFORMATION  
CONCERNING UNITED STATES PERSONS

Sec. 220. (a) No entity of the Intelligence Community may maintain, use, or disseminate any nonpublicly available information concerning United States persons without their consent, except under procedures approved by the Attorney General reasonably designed to insure that --

(1) information collected by means of electronic surveillance as defined in chapter 120 of title 18, United States Code, shall be maintained, used, or disseminated in accordance with the provisions of such chapter;

(2) information collected by the National Security Agency from international or foreign communications shall be maintained, used, or disseminated in accordance with the provisions of title III of this Act;

(3) information collected by means of overhead reconnaissance shall not be used, disseminated, or maintained in such a manner as to permit its retrieval by reference to a United States person, without his consent, unless it is significant intelligence essential for interpreting or understanding information about foreign powers, organizations, or persons;

(4) information collected by any other lawful means shall not be maintained in such a manner as to permit its retrieval by reference to a United States person unless --

(A) intentional collection of information concerning such person has been approved pursuant to the provisions of this title;

(B) such information may provide a basis for initiating intentional collection of information pursuant to the provisions of this title;

(C) such information concerns an official of the United States Government designated by the President;

(D) such information concerns a possible threat to the physical safety of any person;



(E) such information is reasonably believed to be evidence of a serious Federal crime;

(5) information collected by any other lawful means shall not be used or disseminated unless --

(A) such use or dissemination is necessary to assess the effectiveness or security of the means by which the information was collected and the information is sealed or purged in a timely manner;

(B) such information is used or disseminated in a form which does not personally identify a United States person;

(C) such information is used or disseminated in a form which personally identifies a United States person and such identity is significant intelligence essential for interpreting or understanding intelligence concerning foreign powers, organizations, or persons;

(D) such information satisfies the requirements of paragraph (4) for the maintenance of information;

(6) information collected by any means prohibited by this Act shall be maintained, used, or disseminated only for purposes of oversight, accountability, and redress;

(7) information, however collected, concerning the lawful political beliefs, activities, or associations, or private lives of United States persons shall not be maintained, used, or disseminated unless clearly necessary for authorized intelligence purposes;

(8) information, however collected, shall be sealed within seven years from the date of collection and shall not thereafter be used or disseminated unless clearly necessary for authorized intelligence purposes;

(9) information, however collected, shall be disseminated within the entity only to such persons who have a need for such information in the discharge of their authorized intelligence responsibilities and shall not be disseminated outside the entity without prior written

approval of an intelligence official designated by the head of the entity specifying the authorized recipients and the reasons for dissemination;

(10) information, however collected, shall not be disseminated for law enforcement purposes unless --

(A) such dissemination is necessary to inform appropriate law enforcement officials of illegal acts within their jurisdiction or to protect against a threat to the physical safety of any person;

(B) the need for such dissemination outweighs the possible risks of disclosure of sensitive intelligence sources or methods;

(C) the Attorney General or his designee is notified in a timely manner of all such dissemination;

(11) information, however collected, shall not be disseminated to a foreign government unless --

(A) such dissemination is clearly in the interests of the United States;

(B) the need for such dissemination outweighs the possible harm to the United States person whom the information concerns;

(C) the Attorney General or his designee is notified in a timely manner of all such dissemination.

(b) The Attorney General or his designee shall review at least annually all maintenance, use, and dissemination of nonpublicly available information concerning United States persons, without their consent, to determine whether the procedures approved by the Attorney General pursuant to this section have been followed.

CIVIL ACTION

Sec. 221. (a) A violation of a person's rights to privacy, freedom of expression, and due process of law, which are protected by the establishment of procedural safeguards in this title whose violation would contravene this title's purpose as explained in section 203 (4), gives rise to a constitutional tort. In such instances, a person has redress under chapter 171, title 28, as amended (as set out in S. \_\_\_ ) except as provided in (d) and (e) below.

(b) In the case of an imminent or continuing violation of a person's rights protected by this title, a court may exercise its equitable power to grant temporary or permanent equitable relief, including a mandatory or prohibitory injunction.

(c) If a plaintiff prevails under (a) or (b) above, such plaintiff shall be entitled to a reasonable attorney's fee and other litigation costs reasonably incurred.

(d) An application under (a) or (b) above must be made within two years of the date on which the aggrieved person discovered or reasonably should have discovered the facts establishing a cause of action under this title.